

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF AGRICULTURE

PUBLIC WORKSHOPS EXPLORING COMPETITION IN
AGRICULTURE

Poultry Work Shop

May 21, 2010

9:12 a.m.

Alabama A&M University
Knight Reception Center
Normal, Alabama

A P P E A R A N C E S

WELCOME/INTRODUCTORY COMMENTS:

The Honorable Eric Holder, Attorney General, U. S. Department of Justice.

The Honorable Tom Vilsack, Secretary of the Agriculture, U. S. Department of Agriculture.

ROUNDTABLE DISCUSSION AND PRESENTATION OF ISSUES:

The Honorable Eric Holder, Attorney General, U. S. Department of Justice.

The Honorable Tom Vilsack, Secretary of Agriculture, U. S. Department of Agriculture.

The Honorable Christine Varney, Assistant Attorney General for Antitrust, U. S. Department of Justice.

The Honorable Artur Davis, Congressman, U. S. House of Representatives.

The Honorable Ron Sparks, Commissioner of Agriculture, State of Alabama.

ROUNDTABLE DISCUSSION ON POULTRY PRODUCER CONCERNS:

The Honorable Tom Vilsack, Secretary of Agriculture, U. S. Department of Agriculture.

Gary Alexander, Producer, Westminster, South Carolina.

Kay Doby, Former Producer, Cameron, North Carolina.

1 Robert Lunzy, Former Producer,
2 Columbia, Mississippi.

3 Carole Morison, Former Producer,
4 Maryland.

5 Sandra Genell Pridgen, Producer, North
6 Carolina.

7 Garry Staples, Producer, Steele,
8 Alabama.

9 Shane Wooten, Producer, Henagar,
10 Alabama.

11 **PUBLIC TESTIMONY.**

12 John Ferrell, Deputy Under Secretary
13 for Marketing and Regulatory Programs, U.
14 S. Department of Justice.

15 William Stallings, Assistant Section
16 Chief, Transportation, Energy and
17 Agriculture Section, U. S. Department of
18 Justice.

19 **ROUNDTABLE DISCUSSION ON TRENDS IN POULTRY
20 PRODUCTION:**

21 Norman Familant, Chief Economic
22 Litigation Section, U. S. Department of
23 Justice.

Benny Bishop, Peco Foods, Tuscaloosa,
Alabama.

Max Carnes, Producer, Baldwin,
Georgia.

Michael R. Dicks, Watkins Chair,
International Trade and Development,
Oklahoma State University.

John Ingram, Forest, Mississippi.

Cindy Johnson, Attorney, Cohutta,

1 Georgia.

2 Robert Taylor, Professor, Agricultural
3 Economics and Public Policy, College of
4 Agriculture, Auburn University.

4 Mike Weaver, Producer and President of
5 Contract Poultry Growers Association of the
6 Virginias, Fort Seybert, West, Virginia.

6 **ADDITIONAL PUBLIC TESTIMONY.**

7 John Ferrell, Deputy Under Secretary
8 for Marketing and Regulatory Programs, U.
9 S. Department of Justice.

9 William Stallings, Assistant Section
10 Chief, Transportation, Energy and
11 Agriculture Section, U. S. Department of
12 Justice.

11 DUDLEY BUTLER, U. S. Department of
12 Agriculture.

13 **CLOSING REMARKS:**

14 John Ferrell, Deputy Under Secretary
15 for Marketing and Regulatory Programs, U.
16 S. Department of Justice.

16 William Stallings, Assistant Section
17 Chief, Transportation, Energy and
18 Agriculture Section, U. S. Department of
19 Justice.

18 DUDLEY BUTLER, U. S. Department of
19 Agriculture.

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23

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P R O C E E D I N G S

May 21, 2010

9:12 a.m.

SECRETARY VILSACK: Well, good morning. I'm Tom Vilsack, Secretary of Agriculture. And I'm certainly pleased to be here at Alabama A&M University and appreciate all the folks that are here today.

I want to welcome everyone to this Joint Competition Workshop between the Department of Agriculture and the Department of Justice. It's an historic opportunity for us to listen and to learn.

Congressman, good to see you.

I want to thank the folks at Alabama A&M University for allowing us to use this facility and everyone who has provided assistance to us.

I also want to recognize several members of the United Food and Commercial Workers, as well as those from the retail, wholesale and department store unions that are joining us today.

1 This is, as I said, the second in
2 the series of competition workshops we are
3 holding this year to allow us to better
4 understand the issues of most concern and
5 deserve closer attention and to explore the
6 appropriate role, if any, for antitrust or
7 regulatory enforcement in the agricultural
8 area.

9 In March we held a workshop on
10 general farmer issues in Ames, Iowa.

11 Today we're focusing on
12 competition and contracting practices in
13 the broiler industry, as well as the
14 relationship between producers and
15 companies.

16 On June 25th we will hold a
17 workshop on dairy in Madison, Wisconsin.

18 We will evaluate the competition
19 on livestock markets on August 27th in Fort
20 Collins, Colorado.

21 And we'll discuss margins on
22 December 8th in Washington, D.C.

23 President Obama has provided

1 clear direction on that his government
2 should be open and transparent. And that's
3 what he hope these workshops are designed
4 to do. We seriously want public dialogue
5 on these very complex issue.

6 As I travel as Secretary of
7 Agriculture across the country I hear a
8 very consistent theme, farmers and ranchers
9 and producers are worried about whether
10 there's a future for themselves and their
11 children in agriculture.

12 And we know having a viable
13 market largely determines if such a future
14 will exist.

15 Farmers have the right to know if
16 their markets are fair, competitive and
17 transparent, especially if they're going to
18 make a significant investment to allow them
19 to get in and to stay in agriculture.

20 At the same time, consumers
21 across the country have the right to know
22 whose products they're buying are safe and
23 are fairly priced at the grocery store.

1 At the Iowa workshop we discussed
2 whether there was enough innovation and
3 competition in the seed industry.

4 We also looked at the spot market
5 in hogs, which has become very thin and
6 volatile and making it more difficult to
7 actively price hogs.

8 Today we evaluate the poultry
9 industry, and, specifically, the broiler
10 portion of the industry.

11 As those in the audience probably
12 well know in the 1950's and '60's the
13 poultry industry underwent one of the
14 largest transformations of any sector in
15 agriculture through consolidation and
16 vertical integration.

17 Poultry production is vertically
18 integrated. The company owns the birds,
19 the feed, medications, veterinary services,
20 whereas, the growers take on the capital
21 cost of building the facilities, helping to
22 pay the fuel costs and caring for the birds
23 to market weight.

1 Most production is supplied
2 through poultry growing arrangements
3 between the company and growers.

4 In 1963 the top four firms
5 controlled 14% of chickens slaughtered.
6 Today it's roughly 57%.

7 And now it's not uncommon for a
8 grower to have to do business with only one
9 company in their area.

10 Also been increasing
11 controversies between poultry growers and
12 processors, specifically relating to the
13 length of contracts and contract terms.

14 The concentration numbers fail to
15 answer the basic question, which we want to
16 hear from you today: What is needed to
17 have a viable, fair and competitive
18 marketplace?

19 The issues surrounding the
20 competitiveness in agriculture have been
21 debated for decades. And there's no doubt
22 that they are difficult and complex, which
23 is why this workshop is important and, we

1 believe, long overdue.

2 We continue to seek answers and
3 solutions. The Administration is very
4 aware of the concerns that producers have
5 about market concentration. And we've
6 already taken a number of steps.

7 The USDA and the Department of
8 Justice have established the Agricultural
9 Competition Joint Task Force to explore
10 opportunities to harness each other's
11 expertise and will be developing a new
12 memorandum of understanding that will
13 outline our relationship.

14 These workshops will help inform
15 us as we work on this with you.

16 The president's budget in the ag
17 area has increased GIPSA's funding level to
18 improve enforcement over unfair and
19 deceptive practices in the marketplace.

20 The department is using these
21 resources to hire attorneys to handle
22 complex competition investigations as well
23 as other violations.

1 The current budget the President
2 has proposed to Congress for 2011 also
3 requests additional funds to hire legal
4 specialists and field investigators to help
5 conduct more than 500 inspections to ensure
6 that the market is fair and above board.

7 We published a final rule in
8 December of 2009 to include fairness in
9 contracting in the poultry industry.

10 Specifically this final rule
11 ensures that growers are provided a 90-day
12 notice before a company can terminate their
13 contracts.

14 It also ensures that growers, who
15 were building new poultry houses, get to
16 see a -- a true written contract on the
17 date the poultry company provides the
18 poultry house specifications, not months
19 later, which could put the grower in a
20 thicket or leave of the situation.

21 The final rule also spells out
22 that the growers have the right to discuss
23 their contracts with their families, their

1 lender, their state or federal agencies,
2 their lawyer or other growers that contract
3 with the same company.

4 We are also in the final
5 clearance for a proposed rule which we
6 intend to issue sometime in mid June to
7 carryout the requirements of the 2008 Farm
8 Bill that addresses issues of fairness in
9 contracting in the livestock and the
10 poultry marketplace.

11 Again, I want to thank you-all
12 for attending today.

13 And I want to thank the panelists
14 in advance, before my introductions of
15 them, for their willingness to participate
16 in this workshop. And we look forward to
17 hearing what they have to say on this very
18 important issues in agriculture.

19 It's now my distinct pleasure to
20 introduce the Attorney General of the
21 United States, Eric Holder.

22 During his impressive career
23 General Holder as served in the private

1 practice as a U. S. Attorney for the
2 District of Columbia; as an Associate Judge
3 of the Superior of the District of Columbia
4 and as a Deputy Attorney General.

5 He has worked to investigate and
6 prosecute official corruption on the local,
7 state and federal level.

8 And he's fully invested in strong
9 enforcement of our nation's antitrust laws
10 to advance the interest of justice on
11 behalf of the American people.

12 On a personal note, I want to
13 indicate the personal attention the
14 Attorney General has paid to these
15 particular workshops. There are many
16 places that the Attorney General could be
17 today, but he has dedicated himself to
18 coming to these workshops as an indication
19 of his concern and interest.

20 So please welcome -- join me in
21 welcoming Attorney General Holder.

22 ATTORNEY GENERAL HOLDER: Well,
23 good morning.

1 Thank you, Secretary Vilsack.

2 It's always good to join with you. And
3 it's good to be here and it's also good to
4 be out of Washington, D. C.

5 Seated to my left is the
6 Assistant Attorney General for the
7 Antitrust Division in the United States
8 Department of Justice, a woman who has
9 revitalized the antitrust division and who
10 -- from whom you'll be hearing later,
11 Christine Varney.

12 You might hear in me a slight New
13 York accent, but it's always great to be in
14 the beautiful State of Alabama. I consider
15 you-all my second home. My wife was born
16 and raised about five hours south of here
17 in Mobile, Alabama, but this is my first
18 visit to -- to Normal.

19 So I want to thank the city and
20 our host, Alabama A&M, for welcoming us
21 today and for hosting what I think is a
22 very important workshop.

23 The discussion that we have

1 gathered to begin reflects, I think, a
2 historic collaboration, as Secretary
3 Vilsack said, between the Departments of
4 Justice and Agriculture and leaders from
5 across our nation's agricultural industry.

6 Secretary Vilsack, Assistant
7 Attorney General Varney and I are committed
8 to improving our understanding of how
9 particular agricultural markets function.
10 That is why we are here.

11 And that's why we've decided to
12 hold a series of five workshops across the
13 country to hear from people, to examine the
14 challenges facing America's farmers,
15 growers and producers.

16 Now, two months ago we kicked off
17 this workshop series in Secretary Vilsack's
18 home State of Iowa, I wonder how that
19 happened, where we focused on the seed
20 industry. That meeting, I think, was a
21 great success.

22 We received very valuable
23 feedback from those who attended and from

1 those who provided written comments.

2 Now, I fully expect that this
3 workshop will be just as useful. Not only
4 do we appreciate your input, quite frankly,
5 we need your input, we need to hear from
6 you.

7 And today our goal is to develop
8 a -- a clearer picture of what competitive
9 issues, participants in the poultry market
10 are facing, but we need your perspective.

11 Your insights can help us fulfill
12 our responsibilities to take appropriate
13 action to enforce the Packers and Stockyard
14 Act.

15 It will also enable us to be more
16 effective advocates for competition, which
17 is Christine's job.

18 Now, as we begin this important
19 conversation it is fitting that we've
20 gathered here at Alabama A&M. This
21 university has a very long and a very
22 distinguished tradition of training
23 agricultural leaders. And today is on the

1 cutting edge of industry and industry
2 advancements.

3 In fact, as we speak, university
4 biotechnologists are making strides in the
5 development of an allergy free peanut.

6 Now, this is something very
7 important to me. I've got two children who
8 are allergic to peanuts. And if you can
9 pull this off, I will be able to give
10 peanut butter sandwiches to everybody in my
11 family.

12 But in learning about this, I
13 couldn't help but think about George
14 Washington Carver, who spent his career
15 working on innovations with peanuts at
16 Tuskegee University.

17 Doctor Carver once said, and I
18 quote, "New developments are the products
19 of a creative mind".

20 Well, that is certainly true, but
21 I believe that new developments, and more
22 importantly, progress, are also the product
23 of collaboration.

1 Now, in coming together today our
2 hope is that we can move forward in meeting
3 our goals to ensure competition, to ensure
4 opportunity and fairness in our
5 agricultural markets.

6 Secretary Vilsack, Assistant
7 Attorney General Varney and I understand
8 that.

9 As farmers, producers and
10 industry leaders we understand that you
11 face a variety of challenges.

12 We know that some of you have
13 concerns about production contracts.
14 Others are worried about consolidation in
15 our poultry markets.

16 Whether you're hear to talk about
17 antitrust issues or to raise questions
18 about fair contracting and business
19 practices, we really look forward to
20 hearing from each of you.

21 Now, with your engagement, I
22 believe that we can move closer to
23 answering the question that's at the heart

1 of these workshops.

2 The question of whether
3 competition in today's agricultural
4 industry is as free and is as fair as it
5 should be.

6 And as we work to answer this and
7 understand why a growing number of American
8 producers and farmers find it increasingly
9 difficult to survive by doing what they
10 have been doing for decades.

11 I want to ensure each of you that
12 the Obama Administration is committed to
13 protecting competition in a very vigorous
14 manner. This is a top priority for today's
15 Department of Justice.

16 But I recognize that the vigorous
17 enforcement of our antitrust laws, while
18 critical, cannot fully address the concerns
19 of many agricultural industry leaders and
20 stakeholders. That's why we're partnering
21 with the United States Department of
22 Agriculture to benefit from its deep
23 expertise in your industry and, hopefully,

1 to share our expertise on the more
2 regulatory issues that are potentially at
3 play.

4 And that's why our agencies
5 launched the Agricultural Competition Joint
6 Task Force that Secretary Vilsack
7 mentioned.

8 That's also why we're engaging
9 directly with all of you, to listen, to
10 learn and to determine the best way to
11 ensure fairness and to encourage success.

12 Now, as we evaluate and develop
13 policy we want to hear from you. And I
14 think that's something that all of us would
15 really stress, we want to hear from you.

16 In fact, when we announced these
17 workshops last year, we also issued a call
18 for your comments and recommendations.

19 And, so far, the response has
20 really been tremendous. To date we have
21 received over 15,000 comments. And I'm
22 grateful that so many of you have
23 contributed to this extraordinary example

1 of government, the public engagement at its
2 best.

3 Not only must we keep up this
4 work, we have to expand this work. And
5 together, I believe, that we can address
6 these 21st Century challenges that the
7 agricultural industry now faces.

8 Now, I'm certain that we can
9 honor and preserve your industry's
10 essential role in our economy as well as
11 our culture, our livelihood and our global
12 standing.

13 Your participation here gives me
14 great hope about what we can accomplish
15 together in the days and -- and months
16 ahead.

17 Secretary Vilsack and I look
18 forward to hearing from you and to working
19 with all of you.

20 So thank you so much for
21 welcoming us here today. And, as I said,
22 we look forward to hearing from all of you.

23 SECRETARY VILSACK: General,

1 thank you very much.

2 Let me explain what we're going
3 to do this morning. We are initially going
4 to have an opportunity to hear from
5 Christine Varney that the Attorney General
6 briefly introduced.

7 Congressman Artur Davis is here
8 with us, as well as Commissioner Sparks.
9 We're going to have an opportunity to ask a
10 few questions of this panel.

11 We will break for a short period
12 of time and reconvene a larger panel of
13 producers and growers and have the same
14 kind of question and answer format as the
15 morning session.

16 Then I think we turn it over to
17 -- to General Varney for the afternoon
18 session, which will give folks additional
19 panel discussions and opportunities for Q
20 and A.

21 We do want this to be as
22 interactive as we possibly can have. And
23 we do want to hear from as many people as

1 we can.

2 Let me first and foremost
3 introduce very briefly the three members of
4 the first panel. And then I will turn to
5 the Attorney General for questions and to
6 each of the individual panelists for
7 questions so that they can make a statement
8 in response.

9 As the General indicated,
10 Christine Varney was confirmed as an
11 Assistant Attorney General for the
12 Antitrust Division in April of 2009.

13 She has held leadership positions
14 in both public and private sector.

15 From 1998 to 2009 she was a
16 partner in Hogan and Preston, a very
17 significant and prestigious firm in
18 Washington, D. C., where she served in a
19 dual capacity as a member of the firm's
20 antitrust practice group and the head of
21 the Internet practice group.

22 From '94 to '97, 1994 to 1997,
23 she served as a Federal Trade Commissioner

1 at the Federal Trade Commission. She was
2 the leading official on a wide variety of
3 Internet and competition issues.

4 Prior to her service there she
5 served as an Assistant to the President and
6 Secretary to the Cabinet during the Clinton
7 Administration.

8 She is joined by Congressman
9 Artur Davis, no stranger to the folks here.
10 The Congressman was reelected in 2008 to
11 serve his fourth term in the U. S. House of
12 Representatives. And he represents the
13 Seventh Congressional District here in
14 Alabama and serves as a member of the Ways
15 and Means Committee.

16 He is a member of the
17 Congressional Black Caucus and resides in
18 Birmingham, Alabama.

19 He was also appointed to the
20 senior whip team for the Democratic
21 Congress of the Hundredth and Ninth
22 Congress. And is the co-chair of the
23 Sentrus House, New Democrat Coalition, as

1 well as the Southern Regional Co-chair of
2 the Democratic Congressional Campaign
3 Committee.

4 Congressman Davis and I became
5 first acquainted as a result of
6 relationship on the Democratic Leadership
7 Counsel.

8 Joining the Congressman is the
9 Honorable Ron Sparks who serves as your
10 Commissioner of Agriculture and Industries.
11 First elected in 2002. He's then won
12 reelection to a second term in 2006.

13 In 1999 Commissioner Sparks was
14 appointed Assistant Commissioner of
15 Agricultural and Industry.

16 He has completed terms as
17 President of the Southern Association of
18 State Departments of Agriculture.

19 And most recently served as the
20 President of the National of State
21 Departments of Agriculture.

22 Commissioner Sparks continues to
23 serve with that commission on the executive

1 committee. And that is an opportunity that
2 we look forward to each month to visit from
3 the USDA with the state ag commissioners
4 and secretaries to make sure that we have a
5 seamless communication system.

6 So these are the three panelists.

7 And I think, General, if I could
8 start with you and -- and give you a chance
9 to sort of expand a little bit more.

10 I clearly want to thank you for
11 attending this workshop and certainly
12 appreciate you collaboration your
13 department is providing with our
14 department, it's truly historic.

15 As you know, and as the folks in
16 this room probably know, poultry
17 enforcement under the Packers and
18 Stockyards Act is divided between our two
19 agencies. This makes, I think,
20 communication and coordination very
21 critical.

22 In years past growers have been
23 frustrated of what they feel is a lack of

1 coordination and a sense that no one will
2 help them.

3 Do you have a sense about what we
4 can do to improve the communication and
5 coordination with respect to this important
6 issue?

7 ATTORNEY GENERAL HOLDER: Well, I
8 certainly -- one thing -- one of the things
9 we have to do is exactly what we are doing
10 now, which is to give people an opportunity
11 to interact with those people like
12 ourselves who have the responsibility for
13 running the departments that are -- have,
14 as their responsibility, enforcement of --
15 of that act.

16 I think we also have to come up
17 with ways in which we interact with each
18 interact in ways, frankly, better than we
19 have in the past.

20 I don't think the Department of
21 Justice, again, quite frankly, has been
22 nearly as active as it needed to be.

23 We have tried to reach out to our

1 counterparts at the Department of
2 Agriculture and to establish what, I think,
3 is in some ways a historic relationship
4 with an understanding of the expertise that
5 we can bring to these questions and with a
6 respect for the deep expertise and
7 experiences the Department of Agriculture
8 has in this regard.

9 It seems to me that without all
10 of the relevant agencies of the Executive
11 Branch actually functioning, working --
12 working together, speaking with one
13 another, we're not going to be in a
14 position to give you-all the kind of
15 service, frankly, the kind of government
16 that you deserve, the kind of effective
17 action that I think this government is
18 capable of providing.

19 And, so, that is why we are here,
20 but it is also why when we leave and when
21 we are back in Washington the communication
22 between our departments will -- will
23 continue.

1 SECRETARY VILSACK: General,
2 thanks very much.

3 And for the purposes of the group
4 here today, I want to make one introduction
5 of a USDA official, primarily because
6 they're difficult questions relating to the
7 Packers and Stockyards Act.

8 I want Dudley Butler -- Dudley,
9 do you want to stand up, who is in charge
10 of that area to be able to answer them.

11 So that's the man you want to go
12 to.

13 MR. BUTLER: Thank you.

14 SECRETARY VILSACK: I don't think
15 I just did you a favor, Dudley.

16 I want to now turn to Congressman
17 Davis.

18 Congressman, just from your vast
19 awareness and knowledge as you travel
20 around in your congressional district in
21 the state, your thoughts about competition
22 in the poultry industry and what, perhaps,
23 needs to happen in order to make sure that

1 everyone is being treated fairly.

2 CONGRESSMAN DAVIS: Thank you,
3 Mr. Secretary.

4 And let me begin by just greeting
5 you and the Attorney General. Mr.
6 Secretary, you may recall several years ago
7 after our DLC partnership you came to the
8 State of Alabama and you had a chance to
9 talk to some Democrats in Jefferson County.
10 And it was good to see you then.

11 And, Mr. Attorney General, it's
12 always good welcome you come back to your
13 kind of, sort of adopted state.

14 Some of you may remember the
15 Attorney General honored the State of
16 Alabama in 2009, only few weeks after his
17 being sworn in as the first
18 African-American Attorney General of the
19 United States he came to Selma, Alabama.
20 And he honored history and he honored the
21 whole state by standing in the pulpit of
22 Brown's Chapel on Jubilee Sunday.

23 And, Mr. Attorney General,

1 people continue to remember that visit, not
2 quite as much as they remember Barack Obama
3 coming, but you're a close second. And it
4 meant a lot that you came that day and I
5 thank you for that again.

6 Let me -- before I answer your
7 question, I want to pay tribute to both of
8 these individuals who are seated to my
9 immediate left because of something the
10 U. S. Congress is about to do, but it would
11 not have happened without the leadership of
12 Secretary Vilsack and Attorney General
13 Holder.

14 Some of you in this room have a
15 vital interest in a fair and just
16 resolution of the Pigford Case that has
17 consumed some many people and so many
18 families for close to 20 years now.

19 Several years ago working with
20 Democrats and Republicans in Congress we
21 managed to reopen the Pigford litigation
22 and included those provisions in the
23 Bipartisan 2008 Farm Bill.

1 Well, earlier this year Secretary
2 Vilsack and Attorney General Holder made an
3 announcement that this long running, long
4 festering stain of the agricultural system
5 of the United States was ready to be
6 settled.

7 And I'm happy to sit here and
8 report to you that in Congress' final days
9 before the Memorial Day recess the House of
10 Representatives is poised to pass
11 legislations that will include a 1.4
12 billion dollar settlement for Pigford
13 litigants that would not have happened
14 without the vision of this Attorney
15 General, this Agriculture Secretary and
16 this President.

17 So please give them a hand for
18 that accomplishment.

19 Let me go to directly to the
20 Secretary's question.

21 Mr. Secretary, the best way I can
22 answer that question is to share with you a
23 brief anecdote that I recall from my

1 travels around this state several years
2 ago.

3 I was attending a farmer's
4 conference. And, candidly I did not
5 profess myself to be an expert on poultry
6 farming, I was there to learn and to
7 listen. I said my piece. And then at the
8 end I -- I took questions, did more
9 listening than talking.

10 As I was about to leave, and I
11 did what we politicians are always
12 reluctant to do and says, is there any one
13 person who hasn't had a chance to speak who
14 wants to get in?

15 There's a gentleman from North
16 Alabama who made his way to the microphone.
17 He said, Mr. Davis, I'm a poultry farmer.
18 Been a poultry farmer for 33 years.

19 My son is 22. He is graduating
20 Auburn University. A very fine school in
21 East Alabama, Mr. Secretary. And he said
22 my son came to me a few weeks ago and said,
23 "You know, dad, you've been a poultry for

1 32 years. I have decided that I want to
2 follow in your footsteps and I want to be a
3 poultry farmer".

4 The gentleman looked out at the
5 audience and said, Mr. Davis, the first
6 thing I did was I said to my son, "Well,
7 I'm going to put together a list of
8 contacts that you may want to talk to", you
9 know, as dads and sons kind of always work
10 together. So I'll put together a list of
11 contacts I want you to talk to.

12 And then he said something that
13 stunned everybody in the room, he said, "I
14 had no intention of calling a single one of
15 those contacts on behalf of my son".

16 Everyone got quiet. And he said
17 I waited, I let several weeks go by and my
18 son came back and said, "Dad, have you
19 heard from any of those guys, you know,
20 that you said I needed to talk to about
21 getting into the poultry business"?

22 And this gentleman said to us
23 that day that he kept giving his son the

1 runaround.

2 And everyone is sitting there
3 wondering why would a father give his son
4 the runaround when his son was trying to go
5 into the family business.

6 The gentleman looked out at all
7 of us that day, about a hundred and fifty
8 people and said, "Mr. Davis, I have done
9 this for 32 years. I do not have the
10 confidence that my can make it in the
11 poultry business. I know he's smart. I
12 know he has everything he needs in terms of
13 work ethic. I know he has the character,
14 my wife and I taught him that, but I do not
15 have confidence he can make it in the
16 family business".

17 And I remember everyone in that
18 room was sitting there wondering have we
19 gotten to a state in farming and
20 agriculture in the State of Alabama where
21 when a son wants to walk in his father's
22 footsteps the son doesn't feel empowered to
23 take his son along that path.

1 We have a lot of poultry farmers
2 who are here today. I suspect, General
3 Holder, Secretary Vilsack if we had a
4 chance to inventory some of them -- I don't
5 know if that gentleman is here, he may not
6 be, but I suspect there's stories like his
7 in this room.

8 And I didn't have a chance to
9 quiz him or to cross examine him about why
10 he didn't have confidence that his son
11 could make it.

12 Maybe it's high energy costs.

13 Maybe it's the difficulty of
14 sustaining a small business because running
15 a farm is running a small business as all
16 of you appreciate.

17 Maybe it's the lack of
18 competition.

19 Maybe it's predatory pricing.

20 Maybe it's predatory
21 relationships between producers and
22 management.

23 I didn't cross examine him on

1 those things that day, but that man in that
2 room communicated a pain in his voice.

3 And all of us who care about the
4 future of this state and the future of this
5 region have to understand that we cannot
6 walk away from our farms.

7 The reality is that in this state
8 farms have lost 76% of their value over the
9 last decade.

10 That means Alabama is hurting
11 because we're not fully maximizing what our
12 farms can do.

13 So I'm glad to see the Attorney
14 General and the Secretary of Agriculture
15 fully engaged in this very unique
16 partnership because I want men, like the
17 individual who stood up at that meeting, to
18 be able to say, I welcome my son into the
19 poultry profession. I welcome my son into
20 the family business. I'm confident he can
21 make it. I'm confident he can thrive.

22 There's something fundamentally
23 wrong when a father has to say to a son do

1 not walk the path that I walked.

2 The final comments I'll make, Mr.
3 Secretary. We have the outstanding new
4 president of this school, Doctor Hugine,
5 who is here today, who's seated on the
6 first. We have a pretty good crowd of
7 folk.

8 Everyone in this room ought to
9 appreciate, it is not an accident or
10 coincidence that we're Alabama A&M. As
11 J.C. likes to say they could be in anyplace
12 in the world right now. Some of y'all got
13 that.

14 They could be in a number of
15 places in Alabama.

16 They could be at Auburn.

17 They could be at AUM.

18 They could have gone to Selma.

19 They could have found an excuse
20 to do this in Birmingham because the
21 flights get into Birmingham more easily
22 sometimes.

23 But they're here, Doctor Hugine,

1 at this school, which has meant so much to
2 Northeast Alabama. For anyone who doubts
3 that Alabama A&M is 100% on its way, that
4 Alabama A&M is one of the proudest
5 institutes in this region, turn around and
6 look behind you and see what Alabama A&M
7 can do.

8 Doctor Hugine, it's a tribute to
9 your leadership that we're today.

10 Thank you so much.

11 SECRETARY VILSACK: And,
12 actually, Congressman, we were planning a
13 competition hearing on football at one of
14 those other universities. That will come
15 later.

16 Commissioner, I want to turn to
17 you. You obviously have your ear to the
18 ground with Alabama agriculture and
19 agriculture generally.

20 I'm just curious, and I think the
21 General is curious, in knowing your
22 thoughts about what we can do to make
23 sure that this playing field is level for

1 the growers and producers and how can we
2 potentially strengthen their position so
3 that this playing field is as level as it
4 can be so that a father has a chance to say
5 to his son you can participate in this
6 business.

7 COMMISSIONER SPARKS: Absolutely.

8 And, Mr. Secretary, you're on
9 your own when you start mentioning football
10 in Alabama, okay.

11 The first thing I want to do is
12 certainly thank Alabama A&M. It is great
13 to be back in North Alabama.

14 Mr. Secretary, I'm one of the
15 fortunate commissioners in this country
16 where I have three land grant universities
17 with Alabama A&M, Tuskegee and Auburn. And
18 I am very proud of all three of them. And
19 they do yoeman's work for agriculture in
20 this state. And I just want to -- I'm very
21 proud of them and I appreciate them.

22 And I want to thank you
23 personally for taking your time to come to

1 Alabama, along with General Holder. This
2 means a lot to -- to us in Alabama.

3 And thank you Assistant Secretary
4 Varney -- General.

5 This means so much for you come
6 to Alabama and talk in my opinion, to some
7 of the best farmers you'll ever meet.

8 I've had the privilege of working
9 with industry and agriculture in this state
10 now for 11 years. And I can tell you it
11 has been a great ride to be able to work
12 with these gentleman.

13 But, you know, there's a key word
14 when we start talking about contracts, we
15 start talking about farmers, we start
16 talking about agriculture, and that key
17 word is profitability.

18 Profitability -- it's hard to
19 keep anybody in business if they don't see
20 a way to make a living. And that's the
21 struggle that farmers have today is to try
22 to figure out how they're going to make a
23 living and how they're going to make ends

1 meet.

2 And General Holder when you
3 started quoting Doctor George Washington
4 Carver it makes me feel good because in
5 many of these individuals that's ever heard
6 me speak I talk about Doctor George
7 Washington Carver also.

8 And Doctor George Washington said
9 a man with no vision is a man with no hope.

10 And that's why all of these
11 people are here today because they do have
12 vision and do they have hope and they want
13 to support their families and they want to
14 support agriculture.

15 The poultry industry is extremely
16 important to Alabama. It's over a two
17 billion dollar industry.

18 The way I view the poultry
19 industry, it is a partnership. It is a
20 partnership of farmers, a partnership of
21 companies.

22 And what I have learned as
23 Commissioner of Agriculture for the past

1 seven years is that sometimes in a lot of
2 partnerships communication breaks down.
3 And when communication breaks down that's
4 where the hardship and the difficulties
5 come because many of these farmers that
6 invest in the poultry industry invest their
7 lives, they invest their home, they invest
8 their land, they invest their future, they
9 invest their kids' future, they invest
10 there kids' education.

11 And when there's a lack of
12 communication of not understanding each
13 other, and the troubles that they're going
14 through, then it creates adversity.

15 And that's what I would hope that
16 we can get out of this meeting today, is
17 that farmers understand companies and
18 companies understand farmers and we find a
19 way to move this industry forward in a very
20 positive time way because the poultry
21 industry is a great industry, but they are
22 going through some very difficult times
23 when it comes to the investment of their

1 home, the price that builds, utility costs,
2 labor costs, but, on the other hand,
3 companies are going through those similar
4 issues.

5 So I would hope that through all
6 -- all of this today that we find some
7 common ground. That companies communicate
8 better with our farmers and that farmers
9 communicate better with our companies and
10 that we find a way to move this business
11 forward because without each other there is
12 no poultry industry.

13 We've got to have each other to
14 make this industry work. And we've got to
15 understand what each other are going
16 through.

17 The technology. And I think we
18 need to find a way to reward good farmers
19 that use the technology that these great
20 land grant universities afford them.

21 So that's -- that's where I would
22 hope.

23 There is a great risk for farmers

1 and there's a great risk for companies.
2 And we've just got to find a common ground
3 and the communication that allows us to
4 move on.

5 SECRETARY VILSACK: Commissioner,
6 thank you very much.

7 I think it's important for us to
8 reflect, not just on the industry's
9 significance to farmers, but also on the
10 industry's significance to consumers.

11 Very few people in America
12 appreciate what American agriculture and
13 the food industry provides to them.

14 Every single one of us has
15 probably 10 to 15% more disposal income in
16 our pockets from our hard earned paychecks
17 by virtue of the fact that we have the
18 least expensive food as a percentage of
19 income of any developed nation in the
20 world.

21 So Americans have this
22 extraordinary opportunity to maybe buy a
23 nicer house or a car or go on a vacation in

1 large part because those food dollars are
2 stretched so far in this country.

3 And, so, it is important for us
4 to continue to support farmers.

5 And, General, and -- and
6 Assistant Attorney General Varney you might
7 find it interesting to know that -- that
8 these farmers out here, if you took a look
9 at their total farm income, family farm
10 income across the country, only 9% of it
11 last year came from farming operations,
12 which means that 91% had to come from some
13 other place, which means that these people,
14 in many cases, are working more than the
15 farming job they have, they're working off
16 the farm or their spouse is working off the
17 farm or they're both working off the farm.

18 So, Commissioner, your comments
19 are -- are certainly important.

20 And you brought up the issue of
21 communication. And I think, as the General
22 indicated, that the departments have to do
23 a better job of communicating. And,

1 certainly, the USDA has the responsibility
2 to -- to -- to be a better communicator,
3 both with farmers, as well as the
4 Department of Justice.

5 And I'd like to ask the Assistant
6 Attorney General who is really spearheading
7 this effort. Maybe you could -- maybe you
8 can tell us a little bit more about the
9 enforcement matters the antitrust division
10 handles and -- and how poultry enforcement
11 is actually handled in the department in
12 the sense of your role in all of this.

13 ASSISTANT ATTORNEY GENERAL

14 VARNEY: Thank you, Secretary. And thank
15 you President for having us here at this
16 wonderful university. It's delightful to
17 be here.

18 Let me start by saying that when
19 we raised the idea of doing these hearings
20 to better understand what the issues were,
21 the intersection between agriculture and
22 USDA policy and the Department of Justice
23 policy, both Secretary Vilsack and General

1 Holder immediately said, yes, when are
2 they, we're going.

3 So from the highest level of the
4 Obama Administration this has been
5 something that we care deeply about.

6 And you might recall at our last
7 hearing in Iowa, which was the one where we
8 kicked this off, it was at a table just
9 like this where we were hearing in the feed
10 and grain industry that the different
11 avenues that the USDA and the Department of
12 Justice were pursuing.

13 And at the table we said, "Well,
14 why don't we create a joint task force".

15 That's where this task force that
16 you've been hearing about today came from
17 was the meeting in Iowa.

18 And I expect today, by listening
19 to you, we'll come up with some additional
20 activities that we need to be doing that
21 could address some of the problems that --
22 that you're experiencing.

23 Let me just give you a brief

1 overview. At the Department of Justice, in
2 the Antitrust Division, we essentially have
3 three broad areas of law enforcement that
4 we undertake.

5 In the Sherman Act enforcement,
6 the Section 1, we generally prosecute
7 criminal cartels, price fixing among
8 companies.

9 If any of you saw the movie, *The*
10 *Informant*, that was an antitrust division
11 criminal prosecution.

12 Under Section 2 of the Sherman
13 Act we prosecute large companies that have
14 a market share in any particular industry
15 and or abusing that market share in any way
16 that's predatory or exclusionary.

17 And then under Section 7 of the
18 Clayton Act we examine mergers. And any
19 merger that may lead to a substantial
20 lessening of competition we're required to
21 block.

22 At the Department of Agriculture
23 they administer, as the Secretary

1 introduced, the Packers and Stockyard Act.

2 And the intersection between
3 regulating an industry such as poultry
4 under that act, and the enforcement of the
5 competition laws under the antitrust
6 division is very complex, exceedingly
7 difficult.

8 And what we have found, at least
9 in the time that we've been here, is that
10 the more we work together the more we
11 understand the industry in its totality.

12 As you've heard from both the
13 Secretary and the General we understand the
14 poultry industry is very, very vertically
15 integrated. That presents a unique set of
16 challenges when we're looking at
17 competition.

18 At the same time, the retail side
19 of the industry has become very, very
20 vertically integrated or very consolidated.

21 In 1992, for example, the top
22 four supermarkets had 17% of grocery sales.
23 Today the top four stores have over 40% of

1 all sales.

2 So you've got consolidation on
3 the retail side and you've got vertical
4 integration on the production side. And
5 than can lead to a lot of imbalances in the
6 system.

7 In a regulated industry where you
8 look to correct those imbalances is a
9 combination of using the tools that
10 antitrust division has in concert with the
11 tools that the USDA has through enforcement
12 of the Packers and Stockyard Act.

13 So, Secretary, what we're doing
14 is working very closely with your staff to
15 help us -- them educate us on where they
16 need the antitrust enforcement.

17 We talked about the role that
18 you've been working on. We've been giving
19 you, at the staff level, a lot input into
20 that role to ensure that when it likely
21 undergoes any judicial review, when it
22 becomes final, it's sustainable from our
23 perspective.

1 As a matter of fact, when the
2 USDA rules are challenged, it is actually
3 the Department of Justice that represents
4 the USDA.

5 So I think over the years there's
6 been varying degrees of collaboration
7 between the two agencies. I think all of
8 our staff have informed me that there has
9 never been the degree the collaboration
10 that there has -- that there is now.

11 So from the highest level to all
12 the way through the staff on the ground to
13 the staff here on the ground, you can be
14 sure that whatever is happening at USDA
15 they're involving us.

16 Whatever we're hearing about,
17 they're the experts, we're going back to
18 them.

19 Our mission with the USDA is to
20 protect the consumer welfare of the
21 citizens of the United States, whether they
22 be producers or whether they be growers to
23 ensure -- through ensuring that our markets

1 are open and fair and competitive. And
2 that's what we're doing.

3 SECRETARY VILSACK: Thank you.

4 We've got a few minutes left.

5 And what I'd like to do is to give the
6 Commissioner and the Congressman an
7 additional question.

8 And then give the General any
9 closing comments for this particular
10 section they'd like to share.

11 Commissioner, let me go back to
12 you and simply ask you this question: If
13 we reconvene, say in ten years from now,
14 what would you hope we would be able to say
15 about the poultry industry that would be a
16 little bit different than it is today or
17 how you would see it different?

18 COMMISSIONER SPARKS: Well, it
19 would be -- what I would hope is that we
20 keep our markets open.

21 That we compete in a global
22 world.

23 That we -- that the integrators

1 and the farmers have a better line of
2 communication of understanding each other's
3 responsibilities and investments.

4 And I would hope that ten years
5 from now, rather than it being a two
6 billion dollar industry in Alabama, it's a
7 ten billion dollar industry, but I just
8 think there's a lot of opportunities here.

9 Working with our universities.
10 Using the technology that's available to
11 allow these -- and reward those
12 technologies and allow these growers to
13 compete in the marketplace under -- under
14 the restraints that they -- that they have
15 to live under.

16 So I would hope that, and I
17 believe this, is that if we -- if we have
18 that line of communication and break down
19 those barriers that growers understand the
20 companies and companies understand the
21 growers, and that we have that line of
22 communication.

23 I think that's where the

1 disconnect is, Mr. Secretary, is that
2 sometimes, even -- even though we're
3 partner shipping, they don't understand
4 each other's responsibilities.

5 And I think the more we
6 understand that; then the -- then the
7 poultry industry moves forward and we all
8 benefit from it.

9 SECRETARY VILSACK: Congressman.

10 CONGRESSMAN DAVIS: One important
11 thing, Mr. Secretary, that I think that you
12 and this Justice Department recognize is an
13 anti-competitive environment is an
14 inefficient environment. And that's worth
15 spending a few seconds serving to folks who
16 don't think about these issues every day.

17 Sometimes there's a mindset --
18 thunder -- sometimes there's a mindset of
19 the American economy that if we just get
20 out of the way, if government is
21 laissez-faire, if the Justice Department
22 sits on the sidelines that things will
23 naturally happen.

1 And we are comfortable in that
2 belief, many of us, because we like our
3 free market system, we like our capitalist
4 system and we venerate that as both a value
5 and an economic model.

6 But the reality as Presidents
7 from Teddy Roosevelt to Barack Obama have
8 understood, sometimes we've got to be
9 watchful, sometimes we have to be vigilant.
10 Sometimes we have to make sure that in the
11 name of an open market we don't crowd out
12 competition. And in the name of efficiency
13 we don't do something that's enormously
14 inefficient.

15 And, Mr. Secretary, you put your
16 finger on it earlier, the American consumer
17 is a very privileged person. The American
18 consumer lives in one of the few highly
19 vibrant societies of the world where most
20 of us have routine access to most consumer
21 items. And most of us have a reasonable
22 opportunity to climb to the next economic
23 lever, even in the midst from the aftermath

1 of the incredibly deep recession we've had,
2 that's one of the geniuses of the American
3 economy.

4 If we get this mess the
5 Commissioner talks about right in the next
6 ten years, if we get it right in the next
7 two decades, we'll preserve the consumer's
8 capacity to have access to the market.

9 We will preserve the industry's
10 capacity to be productive and efficient in
11 the right kind of way.

12 And, finally, we will preserve
13 the men and women who are laboring on farms
14 day in and day out, we will preserve your
15 capacity to keep doing what you do because
16 that's what I want to end with.

17 The number of men and women in
18 this state and this region who had walked
19 away from farming in the last 40 years is
20 aching.

21 So many people who grew up on
22 farming are walking away from it and it's
23 draining vitality from whole parts of this

1 state.

2 We've got to connect those
3 individuals. We've got to give them the
4 promise that they deserve.

5 And if we do it, it won't simply
6 be good for farmers and agri-business, it
7 will help lift up the economy of the entire
8 state and the entire region.

9 SECRETARY VILSACK: Thank you
10 very much.

11 You know to the Congressman's
12 point, we've lost over a million farmers in
13 that 40-year period around the country.

14 And not only have we lost
15 farmers, but we've lost a lot of population
16 in our rural communities.

17 And, General, you might be
18 interested to know that one-sixth of
19 America's population, about 16, 17% of
20 Americans lived in rural America, but 45%
21 of those who serve us in uniform come from
22 those small towns and from rural America.

23 And as we see a squeeze on the

1 folks in rural America and the economy that
2 suffers in rural America, and there are
3 fewer and fewer young people being able to
4 stay in rural America, you have to begin to
5 wonder are they're going to be enough folks
6 to care of all of our military needs and
7 our law enforcement needs, where are these
8 folks -- where are these folks going to
9 come from.

10 So, Congressman, you're -- you've
11 got a good point there.

12 General, your closing comments
13 before we close this first session.

14 ATTORNEY GENERAL HOLDER: Yeah.
15 I mean, think that, you know, although we
16 are focusing agriculture generally, the
17 poultry industry specifically here today,
18 we're really talking about something that I
19 think in a lot of ways is more basic than
20 that.

21 And it -- I think that goes to
22 the last two sets of comments we've heard.

23 The American culture, who we are

1 as Americans, is really -- you know, if you
2 look historically is really based on our
3 agricultural industry, the agricultural
4 component of what America is about.

5 The values that we hold as
6 Americans, I think, were developed on
7 farms. I'm a city guy. I'm proud to be --
8 I'm proud to be from New York, don't hold
9 that against me. But I'm also a person who
10 knows a little about the history of -- of
11 this nation.

12 And I think it's important for us
13 to make sure that we hold on to the values
14 that were developed in our rural areas that
15 continue to sustain this nation and
16 differentiate this nation from, you know,
17 many other nations around the world. It's
18 what makes, you know, this nation great.

19 What we want to do is come up
20 with a way in which we, in government, can
21 help to make sure that there are
22 efficiencies, that there is fairness there.

23 And that our economic -- economic

1 system that we have is consistent with the
2 values that we always espouse.

3 We're not looking for government
4 to direct things, but government can play a
5 role as a referee at times.

6 The Obama Administration is not
7 looking, one way or the other way, as much
8 as just to try to make sure that fairness
9 is the thing that permeates the
10 agricultural sector.

11 And in doing so, I think we will
12 do the greatest service, which is to
13 perhaps reverse the trends that we have
14 heard about people leaving farms, people
15 not being able to pass on to their sons and
16 daughters the ability to do the great
17 things that they have done and the things
18 that have shaped this country, the things
19 that have made this nation great.

20 Our economy and our well-being is
21 at stake, which is somewhat, I think, you
22 know, the sole of this nation is also
23 something that we are fighting to preserve.

1 And that's something that you-all, I think,
2 are key parts of.

3 And, so, what we want to do, as I
4 said at the beginning, is really to listen
5 to you, to figure out ways in which we can
6 be of service to you.

7 And in doing so make sure that we
8 preserve the great nation that we've always
9 had and that we want to continue to have.

10 SECRETARY VILSACK: General,
11 thank you.

12 We are going to a break for --
13 for about 15, 20 minutes or so and try to
14 reconvene here for the next roundtable,
15 which will be the poultry growers. We'll
16 talk to growers and former producers about
17 their expectations.

18 That will then be followed by a
19 lunch break. And then we will reconvene
20 after lunch for an opportunity for the
21 public generally to provide testimony.

22 That will be followed by another
23 roundtable discussion of individuals, both

1 in terms of the government, as well as
2 academic and -- and the producer and
3 industry viewpoint.

4 And then additional opportunities
5 for public testimony and closing remarks.

6 So we will break for about 15 or
7 20 minutes.

8 (Whereupon, the taking of the
9 proceedings were recessed from
10 approximately 10:03 a.m. to
11 approximately 10:41 a.m., after
12 which the following proceedings
13 were had and done:)

14 SECRETARY VILSACK: If I can call
15 everyone's attention to the -- to the next
16 panel.

17 Let me, first of all, introduce
18 the panel. And I can't see the name
19 plates. So I'm not sure -- all right.

20 Gary, I'm going to start with
21 you. I'm just going to go right down the
22 line introducing folks. And then we'll get
23 -- get some questions and answers.

1 These introductions will be
2 short. And if I mispronounce the name, I
3 sincerely apologize.

4 Garry Staples is the present
5 owner and manager of the White Acres Farm
6 and Egg House Poultry Operation. Owns 60
7 head of registered cows.

8 He's served as a board member of
9 the National Poultry Growers Association as
10 well as vice president of the Alabama
11 Contract Poultry Growers Association.

12 He's on the Board of Directors of
13 the St. Clair County Soil and Water
14 Conversation.

15 He's served as an officer of the
16 St. Cloud -- St. Clair County Cattlemen's
17 Association and the Alabama Cattlemen's
18 Association.

19 He's presently a Major in the
20 Army Reserves. And we thank you for your
21 service. He's served as the past company
22 commander of the Signal Company, 20th
23 Special Forces.

1 He was a team leader of the
2 Operational Detachment 821 1st Battalion,
3 20th Century -- 20th Special Forces.

4 Carole Morison is next. And she
5 is a farmer from Maryland. She and her
6 family raised chickens under contract for
7 23 years on their family farm.

8 She helped organize the Del Margo
9 Poultry Justice Alliance and served as
10 Executive Director for eight years.

11 Currently she's a private
12 agricultural consultant specializing in
13 local food systems.

14 Gary Alexander is owner and
15 operator of Alexander Farms, Inc., a
16 poultry production and property development
17 business in Westminster, South Carolina.

18 He markets 3.2 million broilers a
19 year through his 18 broiler house farm and
20 develops residential properties as well.

21 He serves on the Board of
22 Directors of Excel Farm Credit, ACA and
23 AgFirst Farm Credit Bank, which he serves

1 on the audit committee.

2 Additionally he serves on the
3 Board of Directors of the CS Poultry
4 Federation and the Outdoor Green
5 Foundation, an organization providing
6 outdoor adventures for children with
7 life-threatening illnesses.

8 Kay Doby, who is to my immediate
9 left, has made Cameron, North Carolina here
10 home for four -- I won't say how many
11 years.

12 MS. DOBY: 55.

13 SECRETARY VILSACK: Okay. 55
14 years. I was trying to be delicate.

15 She lives on a 3rd generation
16 farm and continues raise meat, pigs and a
17 small flock of chickens.

18 She's taught kindergarten for 15
19 years.

20 She and her husband built two
21 broiler houses and raised poultries until
22 October of 2008 when their contract was
23 terminated.

1 Robert Lumzy, did I say that
2 right, sir?

3 MR. LUMZY: Yes.

4 SECRETARY VILSACK: Mr. Lumzy is
5 currently a heavy equipment operator. In
6 April of 1999 he purchased Lumzy Poultry
7 Farms where he raised chickens for a living
8 and provided jobs for those in the
9 community who were unemployed.

10 In 2006 Robert lost his contract
11 and it's his desire to regain his contract
12 and once again become a business owner.

13 Sandra Pridgen is a seventh
14 generation family farmer from Snow Hill,
15 North Carolina. She transitioned the farm
16 from tobacco and contract poultry
17 production to a sustainable grass-based fed
18 marketing meats directly to consumers
19 through farmer's markets, fine clubs and
20 restaurants.

21 Rainbow Meadow Farms currently
22 markets, poultry, eggs, beef, pork, lamb
23 and rabbit locally in North Carolina.

1 And she spent five years -- the
2 last five years conducting on farm research
3 for pasture based livestock systems and
4 poultry genetics appropriate for those
5 systems.

6 And our last panelist on the end
7 is Shane Wooten.

8 Did I pronounce that right?

9 MR. WOOTEN: Yes.

10 SECRETARY VILSACK: Shane was
11 raised on a poultry and cattle farm in
12 De Kalb County, Alabama.

13 In 1997 he purchased a farm next
14 to his father's farm and began constructing
15 12 broiler houses where he continues to
16 raise poultry.

17 In 2006 he also become an
18 insurance agent for the A-L-F-A Insurance,
19 specializing in poultry farm insurance.

20 Assistant Attorney General
21 Varney.

22 And I thank all members of the
23 panel for their participation.

1 And what I'd like to do is start
2 off with a question and we'll direct it.
3 All of the panel is here today and ask you
4 to comment on it.

5 And just we'll start there with
6 you and just kind of work right down the
7 line.

8 And, basically, the question is
9 this: The poultry industry over the last
10 40 years has become consolidated and -- and
11 to a certain extent vertically integrated.
12 And the number of countries -- companies
13 for growers to do business varies from each
14 region of the country.

15 In your experience, how does that
16 impact and affect the fairness of
17 contracts?

18 And what options should we
19 consider in taking a look at those
20 circumstances where there may be only one
21 or two companies able to do business, what
22 needs to be done to make sure that farmers
23 and growers get a fair shake?

1 MR. STAPLE: Mr. Secretary, I
2 appreciate y'all coming today.

3 But talking about the integrators
4 being in one area. In my county alone,
5 we've got two, but they're up -- they do
6 not cross lines at this time anyway.

7 I wish I had an answer for you to
8 tell you how to fix that problem, but if
9 you could just get fair and -- and
10 competitive markets with these people where
11 we could, as a grower, be able to go to
12 another integrator and say, look, I -- I
13 can do this for you and get them to help us
14 with that situation.

15 As it stands right now with the
16 contracts that we're offered now it's
17 either a take it or leave it situation. So
18 it really puts us in a bind as growers.

19 MS. MORISON: I'd like to thank
20 you for being here today as well and for
21 giving us this opportunity.

22 As far as the consolidation of
23 the -- of the industry there use to be

1 seven poultry companies where I'm from.
2 We're down to four now. Two are very small
3 poultry companies, two are major poultry
4 companies.

5 And every year we see things
6 downsizing more and more where, you know,
7 smaller ones are -- are bought up.

8 I don't see much difference in
9 contracts between companies. It might be a
10 few different words that are used, but
11 basically they're the same. So, you know,
12 the contracts aren't really affected by
13 that as to whether you're big or small.
14 Contracts are basically the same.

15 SECRETARY VILSACK: Gary
16 Alexander.

17 MR. ALEXANDER: Thank you for the
18 opportunity to be here.

19 In our particular area we are
20 afforded three integrators. And when you
21 look at those contracts each one of them
22 are just minor sentences apart of each
23 other, very equitable.

1 And in research and preparation
2 for this meeting I looked into an area of
3 14 states served by the AgFirst Farm Credit
4 Bank. And those contracts throughout that
5 14 states are with -- again, within pennies
6 of each other.

7 In two or three cases we saw
8 contracts where the grower only had a
9 choice of one integrator were in, some
10 cases, better than the ones where you have
11 multiple choices.

12 So the contract portion of this
13 business is just like any market driven
14 decisions. It's based upon competition and
15 availability of those services.

16 MS. DOBY: In our area we have
17 more than one company, but it seems to be a
18 written rule that if you go grow for one
19 company, you really don't have the
20 opportunity to even cross those lines to go
21 to another company. And with -- like what
22 they're saying, the contracts are pretty
23 much the same, but it's -- it's not a

1 common practice. If you start with one
2 company, you -- you usually stay with them.

3 SECRETARY VILSACK: Robert.

4 MR. LUMZY: Thank you for
5 allowing me this opportunity. But as every
6 one else has said, in our community there
7 are several companies, but once you start
8 with one, that's the only one that will
9 allow you a contract. They won't cross the
10 lines to come to your farm.

11 MS. PRIDGEN: I -- I would say
12 that I basically agree with Kay of what she
13 said. What -- what we've found is that the
14 companies, there's is a slight variation in
15 maybe the type of heating system that they
16 have, that company A uses for their heater
17 or their feed line system.

18 And, so, if you end up trying to
19 go to another integrator; then that
20 integrator is going to say, Well, you know,
21 you're going to have to make all these
22 changes to the specific, you know,
23 Cumberland Heating System or a particular,

1 you know, feed system that we use.

2 So they use that as an excuse not
3 to take you on.

4 And, also, the other thing is if
5 they do end up taking you on, their
6 preference is always for getting -- if
7 they're in expansion mode, their preference
8 has always been given for new houses.

9 And as soon as -- what we've
10 found in our experiences, as soon as they
11 can get new houses, they're going to dump
12 those people that -- that -- that they've
13 brought on from another company.

14 MR. WOOTEN: Thank you, Mr.
15 Secretary.

16 In my area we've been very
17 fortunate. At one time we actually had
18 five integrators that served the area where
19 I lived. It's kind of a sweet spot there.
20 So competition has been pretty good in that
21 area.

22 You mentioned vertical
23 integration. And I kind of have some basic

1 thoughts on that.

2 Vertical integration, I think,
3 has been key to the poultry industry for
4 the last 40 years and has provided a stable
5 income for the poultry farmers in the state
6 of the market. But as far as competition,
7 I think we have a pretty good competition
8 in our area compared to some others.

9 SECRETARY VILSACK: During the
10 course of our first panel Mr. Staples
11 mentioned concerns that he had about --
12 about a lack of communication or
13 miscommunication or an inability to
14 communicate between companies and
15 producers.

16 I'd be curious to know from your
17 own personal experience or from experiences
18 of people that you know and trust, do you
19 share the Commissioner's concerns?

20 And if so, what suggestions would
21 you make for us as to how we might be able
22 to help improve communication?

23 And I'm just going to start this

1 way and come down the other way.

2 MR. WOOTEN: Well, communication
3 is -- between the grower and -- and
4 integrator is -- is one thing that I've
5 prepared a statement on.

6 And if you don't mind, I'll go
7 ahead and start with that.

8 SECRETARY VILSACK: Sure. No
9 problem.

10 MR. WOOTEN: A couple of the
11 issues that is facing the contract growers
12 that I would like to discuss is, number
13 one, rapid rise in expenses over the past
14 two years.

15 And, number two, the breakdown in
16 communication between contractors and
17 integrators.

18 Just a quick example of expense
19 increase. When my brother and I completed
20 our construction of our houses in 1999
21 expenses have dramatically increased, but
22 although there are many different input
23 expenses that go into a poultry farm,

1 propane costs is -- is one of the largest.

2 In 1999 our propane cost was
3 about approximately \$42,000 a year.

4 In 2009 that propane -- that same
5 propane cost had increased to approximately
6 \$92,000 a year.

7 That was a hundred and twenty
8 percent increase. So that was a bottom
9 line cut off of our profitability. Those
10 increases have dramatically affected
11 profitability for the contract grower.

12 And, in fact, the integrated
13 system that has provided such a good,
14 stable income for so long, we actually lost
15 money in 2008 on our farm for the first
16 time.

17 This discrepancy between income
18 and increased expenses is -- including
19 myself and a lot of the other growers as
20 you had mentioned in the earlier panel, we
21 have had to go outside the farm to provide
22 for our families.

23 I think in the same time frame

1 comparison, I think the contract paid --
2 for me, contract pay has increased
3 approximately 17% from 4.7 cents a pound to
4 5.5 cents per pound, which is nowhere close
5 to offset the rising costs.

6 But integrators also have not
7 been immune to these rapid rises in cost
8 and input expenses, but, unlike the
9 contract grower, the integrators do have
10 the ability to reduce production and drive
11 the chicken prices, which helps their
12 profitability. The contractor does not
13 have that opportunity.

14 In fact, I read in the *Poultry*
15 *Times* magazine this week that integrators
16 are actually in the -- are poised to
17 increase production because of some of the
18 contracts or some of the production
19 cutbacks that they have made, the article
20 stated that poultry prices were at a level
21 to where good profits could be made.

22 Unfortunately, integrators do not
23 the realize that the need that continues to

1 -- continues to drive those prices up in
2 order to be able to increase contract pay.

3 I think it's the inability of the
4 integrators to understand the financial
5 strain that is placed on contract growers
6 at this time.

7 I believe that is key. The key
8 reason for that is a communications
9 breakdown inside the companies and also
10 from grower to integrator.

11 That communication breakdown --
12 as we all know communication is very
13 important in every business.

14 I was raised on a poultry farm.
15 And one of the biggest changes that has
16 occurred, that -- that I feel has affected
17 communications over the last 20 years is
18 that 20 years ago almost every employee in
19 our area, almost every employee of the
20 integrator in the grow out side from the
21 service technician all the way up to
22 complex manager were actually contract
23 growers themselves.

1 So that close relationship
2 between the company and the contract
3 growers was -- gave a better representation
4 of the contract growers in any company
5 decisions that were made.

6 In comparison, over the last few
7 years, a number -- that number has steadily
8 declined. And some integrators have
9 actually banned their employees from having
10 -- from being contract growers.

11 In effect that -- in effect the
12 contract grower has lost their
13 representation inside the companies or
14 inside the integrators.

15 That has, in turn, led -- led to
16 uninformed decisions by the companies
17 themselves that has affected the contract
18 grower adversely.

19 This communications breakdown
20 inside of these companies themselves has
21 become more evident in the past few years
22 as profit margins for the companies have
23 tightened and they've also tightened for

1 the growers.

2 So the constant pressure that
3 these tightening of margins that is placed
4 on employees to keep cost at a minimal has
5 caused some employees to be reluctant to
6 bring up issues that may have concerned the
7 contractor grower because it would be an
8 extra, additional cost to that company.

9 So I do not believe that is a
10 result of the company's employees'
11 negligence, I just simply believe that this
12 is just a result of the high input expenses
13 and the low profit margins over the last
14 few years and just the general corporate
15 structure and how communications travels up
16 the structure.

17 SECRETARY VILSACK: Thank you.

18 Sandra -- and feel free -- I know
19 that folks have prepared, in some cases,
20 written statements. If you'd like to read
21 them, that's fine, or summarize them,
22 that's fine, in response to this particular
23 question or if you just simply want to

1 furnish them.

2 We are making a record, a
3 transcript of this, and it will be
4 incorporated into the record.

5 Question about communication.

6 MS. PRIDGEN: As you know, we are
7 independent poultry producers now. But
8 what I'd like to say is that when we were
9 contract producers some of the things that
10 we noticed as a lack of communication was
11 what they term as new grower's contract.
12 Where you initially start out with an
13 initial contract.

14 And then in a few years they
15 bring in a new grower's contract and you
16 have to sign it before you can receive your
17 next flock.

18 And there's been no negotiation
19 and no communication between the grower or
20 a group growers for that company and
21 negotiation of that contract with the
22 integrator. So you either sign it or you
23 don't receive your next flock.

And when you have that kind of debt load over you, of course, you're going to choose to sign the contract. You feel that there's no other option when you owe, you know, a half a million dollars or a million dollars.

Also there's -- there's a lack of communication in that what is said in the contract and what is verbally communicated or verbally implied is oftentimes two different things, you know.

My dad was -- after -- after the first company shut down our complex, my dad was taken on by another company called Kay's Farms. And with that -- in order to be taken on he took on a \$80,000 debt to make equipment renovations on -- on 16-year old poultry houses so that he could grow for that company.

And the company, as soon as they could get brand new houses built with tobacco allotment, buyout money that farmers were getting, they dropped those

1 former Perdue farmers and were -- and they
2 were left debt.

3 My dad, was one of them, was left
4 with, you know, an \$80,000 debt. He grew
5 12 flock for them and they dumped him.

6 MR. LUMZY: Thank you, sir.

7 I'm sitting here listening to no
8 communication. Our problem is that when we
9 have a problem with the company you have a
10 service person comes out, they tell you
11 what the company says. They tell you, with
12 me now back in -- when I lost my farm.

13 They came out, we worked together
14 and got my farm straight. And I asked a
15 question, I said, "Will it cause me to lose
16 my contract"?

17 And they said -- what I -- that
18 the deficiency that I had would not cause
19 me to terminate my contract that afternoon.

20 At six o'clock -- at 6:00 p.m. I
21 got a phone call from Sanderson Farms
22 saying my contract was terminated. And I'm
23 going -- I didn't get a chance to talk to

1 them. I didn't get a chance to tell them
2 what happened.

3 So I probably knew, not the right
4 amount of communication.

5 MS. DOBY: Well, this is kind of
6 in response to Robert said. That's one of
7 the ugly realities of the growers talking
8 about communications.

9 Communications. Growers that are
10 here today are in jeopardy because of
11 intimidation by company personnel. And
12 they're taking a big risk. Everybody --
13 every grower here is taking a big risk.
14 And -- and you ask them, they'll tell you.

15 Communication. I had a grower
16 tell me two weeks ago he was talking to the
17 service person that -- and his question
18 involved the chicks that that he had just
19 gotten.

20 And the service person, the
21 answer he got was, "You know, you should
22 just be glad you've got a job".

23 Well, the grower got the message

1 real quick because in North Carolina, right
2 there in his neighborhood, there are a
3 hundred and sixty poultry houses sitting
4 empty and growers have no way to pay those
5 payments.

6 MR. ALEXANDER: I've got some
7 prepared comments, but I think you can --

8 SECRETARY VILSACK: We can't hear
9 you. Do you want to speak into the
10 microphone.

11 MR. ALEXANDER: I've got a
12 prepared comment.

13 But I think you can reflect up
14 the communication, as the earlier gentleman
15 stated, that this is a partnership. And
16 it's a partnership between, oftentimes an
17 individual and a corporation, but the thing
18 that drives it is the communication.

19 And from my prepared comments I
20 think it will address my feelings.

21 Integrators provided a minimum
22 risk and total market dynamic protection
23 for many individuals engaging in poultry

1 production.

2 Nowhere can anyone go into
3 business totally insulated from market risk
4 and consumer preference changes.

5 Without integrators growers could
6 -- could not afford to be in the chicken
7 business because of the cash flow demands
8 and the market swings at their own farm
9 level.

10 Growers realize that the
11 integrators have a lot of risk, capital,
12 fixed assets, operational cash and et
13 cetera, but the real success of an
14 integrator depends upon their ability to
15 get growers to participate with them to
16 achieve a common goal.

17 In most cases a vertically
18 integrated operation has total assets at
19 risk, much less than the collective dollars
20 at risk by all growers as a single group.

21 Poultry grow out is a great
22 opportunity for young and beginning farmers
23 through USDA with several levels of

1 guarantees, low equity levels, integrator
2 assisted cash flow, opportunities that
3 normal businesses do not have access to.

4 The young farmer with access to
5 land can complete a poultry house, can be
6 in a positive cash flow position in as
7 little as 16 weeks.

8 A poultry house well maintained
9 has a life of over 30 years.

10 Most contracts will pay the
11 grower for his time, provide manure sales,
12 pay off debt in a 12 to 15 years.

13 If a grower has all farm income,
14 there's great tax benefits available during
15 this amortization period.

16 A well-managed poultry operation
17 can be a cash cow for 20 years.

18 Oftentimes upgrades are
19 necessary. This allows the grower to make
20 a minimum, additional investment, again, to
21 enjoy a favorable tax benefit, the tax
22 consideration and complete utilization of
23 depreciation.

1 Current grow out contracts in our
2 area with the integrators who serve us
3 provide about a 20% return on investment.

4 Historically, prior to the latest
5 economic challenges, poultry production, as
6 a percentage of assets held by a bank, only
7 2% of the poultry loans have wound up in
8 non-accrual.

9 Chicken houses come with a lot of
10 USDA assistance.

11 You hear a lot about row crop
12 disaster, but we have disaster programs in
13 chicken houses.

14 We have energy upgrade grants.

15 We have grants for manure holding
16 facilities and dead bird composters.

17 Poultry growers make a commitment
18 to treat the chicken house like a small
19 manufacturing facility are successful, not
20 like something that can be done at the end
21 of the day.

22 The grower must understand the
23 grow out rules, lighting programs, feed

1 schedules are a result of large volumes of
2 data being analyzed to best fit the grow
3 out cycle.

4 Each grower is provided daily the
5 very best grow out conditions for a
6 particular breed to perform.

7 The quality of a grower, in most
8 cases, is reflected by his performance, but
9 every grower is subject to get weak birds
10 or just a bad performance over a given
11 period of time.

12 The competitive contract formula
13 is the hard -- is the best way to reward
14 the hardest workers for the greatest amount
15 of return.

16 These contracts selling like
17 birds, with like diets, with like weather
18 conditions for a fixed period are very
19 equitable.

20 Fixed contracts with an off farm
21 owner would not be healthy, nor contribute
22 to the ultimate product competitiveness in
23 the marketplace.

1 Growers must be held accountable
2 for performance through competition.

3 Integrator requirements for
4 upgrades of current housing standards is
5 sometimes, not always has to be. A house
6 built in a current cycle has a state of
7 art, equipment and facilities. These new
8 facilities will out perform the technology
9 and equipment of aging facilities.

10 In our area growers are often
11 allowed to upgrade to stay at the current
12 pay level or they're offered a contract at
13 a lesser level continuing to do business as
14 usual. Again, another example of risk
15 equals rewards.

16 Historically the -- sometimes
17 what we see in our areas is the terminated
18 growers refuses to see that he needs to be
19 more efficient. And that reflects in the
20 communications we were talking about.
21 Reward is a function of risk and effort.

22 When you look at a big picture
23 the grower starts out with the fewest birds

1 or extended out times is a small price to
2 pay for the total success of the long-term
3 operation.

4 I appreciate the fact that I've
5 never had to write a check to make an
6 integrator whole base upon market
7 conditions.

8 The current oversight provided by
9 GIPSA serves the industry well. There's no
10 need for more government intervention in
11 the poultry industry.

12 A brief look at the packers and
13 stockers complaints show a minimum amount
14 of intervention necessary to maintain fair
15 and equitable standards.

16 If you look at GIPSA --

17 SECRETARY VILSACK: Folks, let's
18 -- let's -- let's make sure that everyone
19 gets a chance to have their say in a
20 respectful way.

21 MR. ALEXANDER: The limited
22 antitrust immunity provided by Capper
23 Volstead and other favorable statutes

1 enable growers and integrators to join
2 together collectively in the process to
3 market their because the buyer power in the
4 agricultural marketplace is strong -- was
5 stronger than it was in 1922 when Capper
6 Volsted was enacted. The acts protection
7 continues to be critically important to the
8 nation's environment.

9 I strongly believe any action to
10 eliminate or delete the Capper Volsted or
11 similar political statute would harm the
12 success and efficiencies of rural
13 communities.

14 MS. MORISON: Would you like me
15 just to answer your question or --

16 SECRETARY VILSACK: Yes.

17 MS. MORISON: Can you repeat the
18 question?

19 SECRETARY VILSACK: Sure. It has
20 to do with communications, whether or not
21 -- the Commissioner suggested that there --
22 there was a need for better communication.

23 And if you want to incorporate

1 whatever statements you to like, feel free
2 to do that. I'm going to give you an
3 opportunity to have that.

4 MS. MORISON: I think that -- I
5 think first off the communication idea,
6 there probably is a great lack of
7 communication. I'd say it's a one-sided
8 communication. The grower listens and the
9 company tells you what to do. That's been
10 my experience.

11 And, you know, it's -- for -- for
12 instance, you know, we've had mention of
13 demanded upgrades of poultry houses, you
14 know. The company will come out say, "You
15 have to do this, this and this or you get
16 no more chickens in whatever contract
17 you're in".

18 That's no way to communicate with
19 anybody, number one. It's going to make
20 the person mad.

21 Secondly, specifically, after 23
22 years of raising chickens, our contract was
23 terminated because we refused to do

1 demanded upgrades.

2 And, you know, a few weeks before
3 -- prior to receiving the termination
4 letter for our contract, we were given an
5 outstanding producer award by the very
6 company that was terminating our contract.

7 So I don't think that
8 communication works. I mean, there was no
9 communication there. We were putting out a
10 good product. It was just said you do it
11 or get no chicklets.

12 I -- I really think
13 communications have been tried and have
14 failed. I've been at this for a while.
15 I've seen a lot of efforts to make
16 communications work. And I can honestly
17 say I have not seen anything change since
18 the earlier 1990's within the industry
19 trying to use communications between
20 growers and the poultry companies.

21 Secondly, I'd -- I'd -- I'd like
22 to add in, you know, the ranking system,
23 which should be maybe a form of

1 communication, but, you know, the ranking
2 system is -- is how growers are paid.

3 And the inputs to the farm versus
4 the output of pounds of meat moved off the
5 farm kind of sums up really easily to
6 explain how this ranking system works;
7 however, all of the inputs are direct
8 poultry company product that are placed on
9 the grower's farm on a good faith basis.

10 The grower must trust the company
11 to deliver them quality inputs for their
12 farm to be competitive, to raise a
13 marketable product, and for them to have
14 the best potential of farm income.

15 The ranking system in no way
16 reflects a grower's performance. It's a
17 reflection of the quality of company inputs
18 in producing the output of pounds of meat.

19 Company control over the inputs
20 besides flock performance and farm income.
21 This control can lead to hampering or
22 enhancing the farm's access to fair and
23 free trade.

Someone earlier, you know,
mentioned about company employees having
poultry farms, you know.

It's been said many, many times by growers that, you know, the company employees who are running poultry farms get the best inputs put on their farms. Since they're the ones that are influencing and controlling where these inputs go, they decide who gets what.

So, you know, some companies have banned employees from having contracts on their farms. Other companies have it.

Obviously, if some companies have banned this practice, then there must be some good reason for it.

I think the bottom line is that, you know, unless every farm placed in a week's ranking receives the exact same and identical inputs, the ranking system is unfair.

We can go all the way back to chick quality that's delivered to farms,

1 breeds that perform differently.

2 Growers aren't consulted on, you
3 know, the breeds or genetics or, you know,
4 which one performs better. And, well, now,
5 I don't want them, I'd rather have this
6 batch over here, we have to take what the
7 company brings us.

8 And then we're suppose to, you
9 know, perform our contractual duty of
10 raising the best flock possible.

11 There's a lot of deciding factors
12 before the chicks are ever delivered to the
13 farm, you know, the genetics, the health,
14 the age and care of the breeder flock.
15 That decides how well the chicks perform.
16 It has nothing do with the grower, it's a
17 company input. They're the ones that
18 control this.

19 Transportation of eggs, you know,
20 from breeder farms to company hatcheries
21 varies as well as the operations at the
22 company owned hatcheries before they're --
23 you know, the chicks are hatched out to

1 come to the farm.

2 Feed is another issue. It's the
3 most costly input for raising a flock of
4 chickens. And is the foremost influence on
5 a grower's ranking.

6 Feed is formulated, mixed, loaded
7 and weighed by the company and then
8 delivered to the farm. Feed must be
9 accepted by the grower on the company's say
10 so. And there's no guarantee that the feed
11 is of the highest quality or quantity.

12 Personally, you know, we've had
13 several issues of -- of feed quality and
14 quantity coming to the farm.

15 Number one, feed quality, I mean
16 we've had feed so bad delivered to the farm
17 that it actually froze in the feed bin. We
18 had to have someone come in and take the
19 feed bin apart, chop the frozen feed out,
20 repair the equipment, put new feed back in.
21 And that had nothing to do with our -- our
22 performance, that was determined by the
23 company. So, again, there was no

1 communication there.

2 Well, you know, what we really
3 delivered you some really bad feed. So
4 let's see if we can't fix this and work it
5 out. And, you know, really, you shouldn't
6 be penalized for something that was our
7 mistake.

8 Instead the communication that
9 comes across is, we didn't do anything
10 wrong, it's on you, and that's the way it
11 goes.

12 You know, quantities of feed
13 being delivered to the farm. There's no
14 way to verify how much feed actually comes.
15 It's -- again, as I said, weighed on
16 company scales.

17 We get a -- a weight ticket and
18 we have to accept it because the company
19 says so.

20 Personally, we were going to put
21 scales on our farm to verify weights and
22 feed that were being delivered by the
23 company.

1 First we were informed by the
2 company that if we were to put scales on
3 the farm that there was no law that said
4 they had to go across their scales because
5 they owned the check-ins.

6 Then we were told point blank,
7 "Well, if you do it we're going to
8 terminate your contract".

9 Now, I see nothing wrong with a
10 grower wanting to put a set of scales on
11 their farm. It helps them be a better
12 manager to control what is coming on to the
13 farm and what is going off of the farm, you
14 know.

15 Why would a company have a
16 problem with you putting scales on the
17 farm.

18 Again, this was -- you know,
19 there was no communication about this,
20 there was no discussion. "It's if you do,
21 your contract is terminated".

22 Personally, I -- I can't count
23 the many, many times that I have heard in

1 one shape or form or another that our
2 contract was going to be terminated if we
3 did such and such. That's no way to
4 communicate with people who are your
5 business partners.

6 And I think probably the last,
7 you know, thing that -- that I'd like to
8 address here is -- is the confusions and
9 the frustrations, you know, of how a grower
10 can find help under the Packers and
11 Stockyards Act because I know it doesn't --
12 maybe it does have to do with
13 communication, but just in a different form
14 between growers and government agencies.

15 And, you know, it's -- it's
16 common knowledge that, you know, GIPSA only
17 has certain authorities. They can only
18 investigate complaints.

19 If there's any violations found,
20 you know, it has to be referred to the
21 Department of Justice.

22 And, you know, it's
23 understandable to me, although frustrating,

1 that the Department of Justice has, you
2 know, a lot more important issues to
3 address than the issues of one contract
4 poultry farmer. I mean, you know, we do
5 have bad guys out there in the country and
6 around the world.

7 So, you know, that right there
8 then is understood, but then it needs to be
9 understood, too, that once a grower does
10 file a complaint with GIPSA, they're left
11 wide open for retaliation by the company
12 they contract with. And it's the single
13 most important fact that keeps growers from
14 filing complaints.

15 Companies are also aware of the
16 inability of enforcement of the act. And
17 GIPSA investigations, I mean, I've -- I've
18 heard comments from company personnel that
19 it's nothing more than a hassle in their
20 daily operations because they know that
21 there will be no enforcement of the act
22 because GIPSA does not have that authority.

23 So, I think, probably, what needs

1 to be done there, either USDA needs to have
2 the same authority and powers over poultry
3 as they do over other livestock, or a clear
4 and concise method needs to be developed in
5 which communications are opened in which
6 easily flow between USDA, GIPSA and the
7 Department of Justice in order that growers
8 do have an open avenue for making
9 complaints.

10 And, you know, for knowing that
11 this information went to all the proper
12 places it should have gone and help can be
13 given. Thank you.

14 SECRETARY VILSACK: Garry.

15 MR. STAPLES: Secretary Vilsack,
16 I'd like to comment on this communications
17 thing, first, and then read a statement --
18 regardless of what some of the press
19 releases say was prepared by me and not by
20 somebody else. It may not be as good as it
21 could have been by somebody else.

22 But as far as communication wise,
23 when I first started we had a yearly

1 meeting with my integrator. Went on for
2 about two years.

3 But since that time I've -- even
4 with that integrator and a new one, the
5 only communication I have is with my
6 service tech, unless I ask to speak to
7 someone.

8 And if I get the opportunity to
9 do that, it's one-on-one, me and whoever I
10 ask and my service tech. So the
11 communication problem is a problem, I
12 really feel it is.

13 What y'all can do for us, I don't
14 really -- I don't really know, but it is a
15 problem.

16 And if you don't mind, I'll --
17 I'll read my statement.

18 I'm here today to speak to you
19 about my experiences as a poultry grower as
20 well as those of other poultry growers.
21 I'm not here just for myself.

22 I've been in the business for
23 nine years. At that time I had a 7-year

1 contract. Four years ago I changed
2 integrators and I was given a 3-year
3 contract. Last year I signed a new
4 contract, flock-to-flock.

5 What that means is every 60 days
6 that's the only time I'm actually under
7 contract to grow chickens. At the end of
8 that 60 days, I can be terminated.

9 I've personally borrowed a
10 million and a half dollars. And everything
11 I've got is mortgaged so I can be a poultry
12 grower.

13 I've got eight poultry houses,
14 two dwelling houses, a hundred and eighty
15 acres of land and all the life insurance
16 policies I've got.

17 As a poultry grower with
18 everything I've been mortgaged, I had no
19 choice but to sign that flock-to-flock
20 contract. Like many of them of said,
21 either I sign it or I ain't got no
22 chickens.

23 Without any chickens, I can't pay

1 any bills. I can't pay my mortgage because
2 chicken houses are designed for one thing,
3 grow chickens.

4 I personally feel like I have a
5 good relationship with my integrator. I
6 work for hard them to raise a good, quality
7 chicken, but I wonder how I can feel really
8 secure knowing that every eight to nine
9 weeks I may not have a relationship at all
10 with them.

11 Poultry -- poultry business has
12 grown under the contracts for over 50
13 years. The company owns the chickens.

14 They control the quality of the
15 chickens.

16 They control the feed and they
17 control the feed weighing system.

18 They control the pay system.

19 And they -- and they can cancel
20 my contract at any time.

21 They also can require expensive
22 upgrades. These upgrades usually cost a
23 substantial amount of money, which means

1 I've got to take out another loan.

2 And when I do that I'm not
3 necessarily reimbursed for it by the
4 company in any way.

5 There's three growers in my
6 county that were given a letter -- a letter
7 on a Thursday that told them they had to
8 make upgrades. The following Monday they
9 got another letter. It said, "You're no
10 longer an employee -- you're no longer a
11 grower with this company".

12 When this could not be done, the
13 company terminated contracts. And since
14 there's not another company in our area at
15 that time, they were left without chickens
16 and a mortgage that they could not pay.

17 New houses built in our area of
18 Alabama are given -- at this time some of
19 the areas given near 10-year contracts with
20 a pay system that, according to the
21 contract, will not let make less than zero
22 six point zero six cents per pound
23 regardless of their performance.

1 My newest two houses are two year
2 old and equipped the same as these new
3 houses. My contract is flock-to-flock, not
4 ten years. My bottom pay is point zero
5 four three oh.

6 I've also know growers in our
7 county that their bottom pay is a point
8 zero three two five.

9 With a flock -- flock-to-flock
10 contract the contract can be changed at any
11 time. With the cost of power, water and
12 gas going higher every year you would think
13 the company would help compensate for more
14 energy costs.

15 My gas alone has gone from 70
16 cents to a dollar and twenty-eight in the
17 past six years, just the gas.

18 Last year I signed a new
19 contract. And instead of helping with my
20 energy allowance, they took away point zero
21 zero three oh cents per pound over a year's
22 grow out.

23 On my farm alone, just my farm,

1 that's a \$4500 savings to the company and a
2 loss to my farm.

3 And although I came here on my
4 own today, it's not without a lot of worry
5 when I leave that I'll have some
6 retaliation.

7 I spent 20 years in the military.
8 And I feel strong about the United States
9 that we should be able to.

10 I appreciate y'all -- y'all for
11 coming and I hope y'all will help us.

12 Thank you.

13 SECRETARY VILSACK: I'm curious
14 to -- to talk to several of you in terms of
15 your experience with the ranking system,
16 which Carole mentioned.

17 And let me start with you, Gary
18 Alexander.

19 Are you operating under the same
20 system and --

21 MR. ALEXANDER: We operate under
22 the same system. We're fortunate enough
23 our integrator separates and breeds the

1 birds, and separates at times of grow out.
2 And these breed of birds comes with a
3 different diet and we sell like kind to
4 like kind each week.

5 SECRETARY VILSACK: So you're not
6 experiencing what Sandra was talking about?

7 MR. ALEXANDER: It results in a
8 ranking system, but that ranking is based
9 upon your performance with a given set of
10 conditions. And everybody you're ranked
11 with has equal conditions.

12 SECRETARY VILSACK: Is that the
13 experience that --

14 UNIDENTIFIED SPEAKER: Who do you
15 grow for?

16 MR. ALEXANDER: I -- I grow
17 Fieldale Farms. It's a small family
18 operation in Northeast Georgia.

19 UNIDENTIFIED SPEAKER: There's
20 the difference, there's the difference.

21 SECRETARY VILSACK: Garry.

22 MR. STAPLES: In my instance, I
23 grow what we call or what the industry

1 calls a big bird. And I may be a little
2 bit different from some of the other
3 growers up here. I know they -- most of
4 them in my county grow for another company
5 and they settle with 15 to 20 to sometimes
6 30 growers.

7 In my instance, I settled with --
8 I think the most I've ever settled with is
9 five.

10 So this ranking system doesn't
11 hurt me as bad. And there, again, I'm here
12 to work for all growers, not just myself.

13 I still stand to lose money under
14 the ranking system. The ranking system has
15 good points, but it has a lot more bad
16 points than it does good points.

17 SECRETARY VILSACK: The folks on
18 this side. Experience with the ranking
19 system.

20 MR. WOOTEN: I think the -- my
21 experience with the ranking system has not
22 been as nearly as good as some of them and
23 not nearly as bad as others I think.

1 The ranking is -- I think was put
2 into place to push performance. And if you
3 -- the way it was designed, if you were --
4 if you done a good job; then you would get
5 rewarded. If you done a better job, if you
6 put more effort into your grow out; then
7 you would get rewarded for that. Of
8 course, it's got it's good and bad aspects.

9 But, overall, I really don't know
10 how the proper way to fix that would be
11 besides maybe making sure all of the
12 playing field is level like the -- Garry, I
13 believe it was, mentioned.

14 MS. PRIDGEN: I don't have a
15 comment.

16 MS. DOBY: Well, one thing about
17 the ranking system, there's no transparency
18 with a checks and balances to prevent this
19 ranking system from being used to target or
20 to retaliate against the growers.

21 And one of the things about this
22 ranking system that when it comes into --
23 one of the things that come into play is

1 the company says that some of the growers,
2 when they're cut off, they're bad growers.
3 Well, this ranking system, you're not
4 started out equal.

5 And the system is controlled by
6 the company.

7 I think it's unfair because of
8 the lack of transparency gives the company
9 the ability to terminate or penalize
10 growers based on false claims of poor
11 performance that, in fact, is out of the
12 grower's control.

13 I understand why the company
14 finds this system attractive, but there's
15 one thing that I don't understand is why
16 our federal government allows this to
17 continue. And I really believe that it's
18 an unfair system.

19 SECRETARY VILSACK: Another
20 comment that's been, you know, in a couple
21 of presentations has to do with the issue
22 of debt and the leverage that debt either
23 does or doesn't provide in a relationship.

1 And I'd be curious to -- to have
2 the panels' views on whether or not the
3 issue of debt creates an impetus to -- to
4 accept things that you would otherwise not
5 be willing to accept but for the fact that
6 you're concerned about having a business
7 and a debt and the ability to repay the
8 debt.

9 Is that a serious issue for
10 growers?

11 MR. WOOTEN: I think definitely
12 -- definitely that is an issue because of
13 the extreme debt load -- you know, any --
14 anybody under that kind of a debt and
15 realizing that there's no other way besides
16 poultry -- being in the poultry industry
17 that you could actually pay off that debt.
18 It does definitely put a strain on -- on
19 any -- to accept conditions given by
20 integrators.

21 I've been very fortunate that my
22 integrator in our area and all the
23 employees in our complex -- I grow for

1 Tyson Foods out -- out of the Snead area.
2 And all the employees have been very easy
3 to work with, but -- and done a good job.

4 But they do not understand the
5 pressures put on us as a lot of them do not
6 understand the pressures put on us.

7 MS. PRIDGEN: I would have to say
8 that it puts you in a position to where you
9 don't see another way out of it.

10 I mean, in our case the farm has
11 been in our family, you know, for over 250
12 years and what are you going to do, you're
13 going to do, you're going to -- you're
14 going to do what they tell you to do
15 because you can't afford -- you've got the
16 farm put up, you've got the grandparents
17 home place, everything put up, you can't
18 afford to risk all of that.

19 MR. LUMZY: I agree 100% with
20 what was just said. In fact, when I
21 received my contract, in order for me to
22 receive my first birds, I had to first
23 invest over \$10,000 in upgrades before they

1 would even bring me chickens.

2 MS. DOBY: Yes. I'd like to read
3 a comment about something that I already
4 had in my statement.

5 When I retired from teaching in
6 1993 was considering building two 500 foot
7 chicken houses. I was promised this
8 long-term relationship as long as I raised
9 a good bird, followed the company's
10 instructions.

11 And, initially, I was provided
12 with a contract for that 10-year length of
13 the loan; however, a few years later the
14 company brought out another version of this
15 contract. Said I needed to sign it to
16 continue to get chickens.

17 Before the end of the initial
18 10-year term the company again changed that
19 contract to a 1-year term. I realized that
20 the company could change contracts easily
21 by threatening to stop placing birds if I
22 refused to sign them.

23 Well, it's typical for growers to

1 be asked to do expensive upgrades on their
2 poultry houses before this first loan and
3 the building has been paid off. I know
4 because I was one of those growers.

5 The threats put before you, the
6 communication, the threat is put before
7 you, if you do not do this, they're not
8 going to bring you any more chickens to
9 grow out. This is extortion, plain and
10 simple.

11 So the growers grow out -- go out
12 to their lenders and they tell them, "Okay,
13 the company wants me to put in new
14 equipment".

15 The lender says, "Sure. How much
16 you need, we'll fix you right up".

17 The grower is now in deeper debt
18 and has to put up more collateral, most of
19 the time his own personal home.

20 The company tells the grower if
21 they make these upgrades that they're --
22 they're going to get paid more under this
23 ranking system.

1 I asked the company managers, I
2 went to them, I said, "You want me to do
3 this. Show me on paper where I'm going to
4 make this money back to justify borrowing
5 more money when I still owe money on these
6 houses"?

7 They couldn't do it.

8 Growers that have made these
9 mandatory upgrades are now finding
10 themselves in financial trouble.

11 Some of them have gotten off
12 farms jobs.

13 Some are refinancing these loans
14 in order to make the payments.

15 10, 15-year poultry loans are
16 turning into 30-year loans with no more
17 than a flock-to-flock guarantee.

18 When companies get into trouble
19 financially they need to cut production and
20 the growers suffer.

21 In North Carolina there are
22 growers that have borrowed a lot of money
23 to make upgrades demanded by the company.

1 And then the company, because of
2 bad financial decisions, terminated their
3 contract.

4 Depending on how many houses the
5 grower had the debt can be thousands or
6 even millions of dollars.

7 Precious farm land and homes were
8 put up to do what the company demanded.
9 This is where this unfair ranking system
10 comes into play again.

11 The company said that these --
12 some of these growers were cut off because
13 they were bad growers.

14 How did they get labeled a bad
15 grower. They got labeled a bad grower by
16 the ranking system. They had no control
17 over the inputs, but then they were labeled
18 by this.

19 This past Monday morning in North
20 Carolina one of these bad growers went out,
21 drove down a country road. He was
22 terminated from his contract, about to lose
23 his home. Took a gun and ended his life.

1 That's what we're talking about
2 here today. This is personal. It gets
3 real poultry growers.

4 And what we're asking today is
5 the USDA and the Department of Justice to
6 help these contract poultry growers.

7 SECRETARY VILSACK: Carole, what
8 about debt and the leverage that it covers?

9 MR. ALEXANDER: In my --

10 SECRETARY VILSACK: No --

11 MR. ALEXANDER: -- in our
12 particular area we're very fortunate
13 because of the relationship between USDA
14 and the banks. 80% of the loans in -- in
15 the counties that I'm in and the counties
16 that surround me are guaranteed by USDA
17 loans.

18 Throughout that guaranteed
19 process USDA has reviewed that poultry
20 contract and has reviewed the terms of the
21 of the loan and said, "Yes, these two are
22 equal. There's enough cash flow to make the
23 payment".

1 You know, I don't know that much
2 about the USDA rules, but it looks like
3 what would be in one place for one state
4 would be for all.

5 But the USDA looks over these
6 contracts and help balances the grower's
7 cash flow or has impact upon the grower's
8 cash flow from the very beginning that
9 makes the amortization of these loans fit
10 the terms of the contract.

11 SECRETARY VILSACK: It's myriads
12 of reliance on the guarantees that the USDA
13 provides?

14 MR. ALEXANDER: It is. And it's
15 faith that you can put in the fact that
16 obviously USDA knows more about it than you
17 do. So you have a feeling that it will
18 work.

19 SECRETARY VILSACK: So if
20 understand your comment correctly, you're
21 suggesting that there's not as much
22 leverage as some of these other folks have
23 experienced because of that?

1 MR. ALEXANDER: That's exactly
2 right.

3 SECRETARY VILSACK: Carole.

4 MS. MORISON: I -- I think that
5 debt has a major influence over what a
6 grower does, what a grower doesn't do, what
7 they say, what they don't say, what's
8 popular and what's not popular.

9 I don't know about the USDA
10 loans. I don't know. I'm just wondering
11 if we all should be after you-all for
12 giving us bad advice.

13 MR. STAPLES: Along those same
14 lines. If it's such a good contract, why
15 does it have to be guaranteed?

16 If -- you know, I -- I got my
17 mine and it's not guaranteed, and I put
18 some money in it. But my bank done mine
19 because of my personal wealth or my equity
20 that I'm putting in there.

21 So what I'm saying is, if these
22 contracts are as good as these people say
23 they are, why do they have to be

1 guaranteed?

2 SECRETARY VILSACK: Since we're
3 kind of piling on USDA here --

4 ASSISTANT ATTORNEY GENERAL
5 VARNEY: And the DOJ.

6 SECRETARY VILSACK: Well, let me
7 just ask this one question and then I will
8 turn to you. Christine, I'm sorry, I'm
9 probably monopolizing this.

10 But I am obviously interested in
11 the -- in the discussion that was started
12 between GIPSA and DOJ when -- when there
13 are problems and folks feel the necessity
14 of going to the next step of filing a
15 complaint.

16 And I'm interested in -- in the
17 reaction of everyone -- and, Carole, you
18 brought this up, that everyone else's
19 reaction about, what would be -- how do you
20 solve that problem?

21 Do you perceive it as a problem?

22 And if so, how do you solve it?

23 Do you give -- would you be

1 interested in GIPSA having more enforcement
2 authority as -- as was possibly suggested,
3 or do you think that there is a process of
4 improving the current system so it works
5 better?

6 Garry?

7 MR. STAPLES: I personally -- I
8 personally think that GIPSA needs a little
9 more authority. I don't want to take
10 anything away from DOJ because I'm pretty
11 sure they've got their plate pretty full.

12 As I understand it right now, or
13 the people I know in this, especially the
14 one you introduced and put him on the spot,
15 he's a pretty a good man, I think, Mr.
16 Butler. I think there's been a tremendous
17 turnaround since he's been there as far as
18 somebody wanting to help us in the poultry
19 industry.

20 In past from, what I knew of
21 GIPSA, poultry was about as low down on the
22 list as you could get.

23 I think you're going in the right

1 direction with having full enforcement from
2 GIPSA for poultry, beef, you know, the
3 whole -- the whole meat industry.

4 SECRETARY VILSACK: Gary, your
5 thoughts on that.

6 Do you have anything?

7 MR. ALEXANDER: I'm not very
8 familiar with the enforcement authority of
9 GIPSA. But I had always -- always looked
10 at GIPSA as being, for a lack of better
11 terms, the DOT of the poultry industry.

12 I felt like the integrators had a
13 tremendous amount of respect for when --
14 when GIPSA was brought up. And -- and how
15 it functions today, and the fact that we've
16 got more credible people in GIPSA looking
17 at the rules, I think it's a positive
18 thing, but I'm not familiar with the
19 enforcement branch.

20 SECRETARY VILSACK: Thoughts on
21 this subject on this side. Kay. I'm
22 sorry.

23 MS. DOBY: When I was thinking

1 about this I had came up with three
2 suggestions.

3 And, one, would be to prohibit
4 that use of that unfair ranking system.
5 There are other ways that companies could
6 pay growers that create incentives for
7 growers to do a good job without unfairness
8 of that ranking system.

9 Another one would be make it
10 unlawful for companies to force these
11 growers these expensive upgrades in their
12 poultry houses at their own expenses.

13 Upkeep is one thing, but if the
14 companies are convinced that these
15 expensive upgrades will improve their
16 bottom line, then maybe that's something
17 they should be paying for. They might be a
18 little bit more cautious about what they
19 are requiring.

20 And then the third thing was to
21 work together to enforce the Packers and
22 Stockyards Act. And to investigate why the
23 poultry market is so broken that growers

1 pay -- like Shane said, had -- you know, he
2 lost money last year, but it's been
3 basically flat for the past 15 years.

4 SECRETARY VILSACK: So do you
5 thing that -- that GIPSA should have more
6 enforcement authority, or do you think
7 there should be some kind of improvement to
8 the current system so the Department of
9 Justice could act?

10 MS. DOBY: Well, I think there's
11 some rules there that have not, you know,
12 being enforced. But, yeah, I think GISPA
13 needs more enforcement authority.

14 MS. PRIDGEN: I think they need
15 more authority.

16 My biggest concern is that
17 there's really no open market for poultry
18 except in my situation, which I'd like to
19 read my prepared statement in a few minutes
20 about, you know, what we're doing and where
21 we're direct marketing.

22 But, you know, you can still go
23 to the stockyards and you can still sell

1 cattle and you can still sell -- you know,
2 it might not be much of a market, but you
3 can sell a little bit of pigs, but there's
4 no -- there's no open market at all for
5 poultry.

6 There's no options for those
7 growers who have those houses who choose to
8 go grow out from under contract except to
9 grown on -- on a -- on a small scale and
10 start working, building their own
11 entrepreneurial business and doing direct
12 marketing.

13 And then you get hit with, what
14 I'd like to talk about, which is the lack
15 of opportunities as far as slaughtering.

16 SECRETARY VILSACK: Well, why
17 don't you just briefly touch on that.

18 MS. PRIDGEN: As you-all know we
19 had 16 years that we raised under contract,
20 my family did. And at the end of that time
21 my dad was left with \$80,000 debt that had
22 to be paid off. So there we were with the
23 farm. Well, we didn't want to lose farm.

1 So we had to start treading water.

2 Well, I -- we were raising lamb.
3 And I had been selling the meat at the
4 local farmer's market and I had developed a
5 core group of customers.

6 I encouraged dad to start
7 chickens and sell them at the farmer's
8 market. This couldn't pay off the huge
9 debt that he had incurred, but it was
10 better than nothing.

11 Soon we were getting requests
12 from restaurants, fine clubs and several
13 small co-op grocery stores. Demand was
14 growing, but the new problem was the lack
15 of slaughter infrastructure.

16 The nearest independent slaughter
17 house was a hundred and thirty-five miles
18 away. We would have to drive 270 -- 270
19 miles round trip twice a week to process
20 and pick up our birds. And then the owner
21 decided to sell his property to a
22 developer.

23 So now we would have to take our

1 birds to either Peachtree, South Carolina,
2 we -- I live in North Carolina. So we'd
3 either have to take them to either
4 Peachtree, South Carolina or Mainta,
5 Virginia, an average of 426 miles round
6 trip twice a week to be processed.

7 It's worthwhile to note that all
8 the while there were three chicken
9 slaughter plants and two turkey slaughter
10 plants within one hour of my farm all owned
11 by poultry corporations.

12 With diesel fuel at over \$4 a
13 gallon we were losing money and couldn't
14 continue to drive that distance.

15 Processing birds on farm under
16 USDA exemption was not a viable option as
17 USDA has a 20,000 bird exemption under
18 PO90-492, but the North Carolina Department
19 of Agriculture only allows a thousand birds
20 -- chickens to be slaughtered out from
21 under inspection.

22 It was apparent that we were
23 going to have to stop raising chickens even

1 though there was a growing weekly demand.
2 By then we were marketing about a thousand
3 birds per week.

4 In late 2007 Chaudhry Halal Meats
5 in Siler City, North Carolina opened a
6 poultry processing plant. Even though this
7 plant is a hundred and fifty miles from our
8 farms, it afforded us the opportunity to
9 continue raising chickens and met the
10 growing demand.

11 The biggest issue for independent
12 poultry producers is the lack of local
13 slaughter infrastructure.

14 Vertical integration in the
15 poultry industry over the last 50 to 60
16 years has decimated the processing
17 infrastructure.

18 North Carolina is seeing
19 phenomenal growth in the local food
20 movement. Consumers are taking the USDA's
21 *Know Your Farmer, Know Your Food Campaign*
22 to heart, but a lack of local of slaughter
23 infrastructure and thus lack of ability --

1 availability of product will hamper the
2 access of that and the success of that
3 program.

4 This intense vertical integration
5 has made it very difficult for any
6 independent farmer or cooperative group to
7 compete financially.

8 Because of processor ownership
9 throughout the entire chain of production
10 these companies can sell poultry products
11 for a lot less than I can.

12 One chick will cost them about 15
13 cents to produce.

14 I will have to pay a dollar for
15 that chick.

16 Feed costs will be two to three
17 times theirs and processing five times
18 their cost.

19 The increasing cost of production
20 means that I cannot be competitive in price
21 with these large companies and, thus, I
22 must depend on the purchases of customers
23 with more disposal income.

1 I recognize that this is part --
2 that part of this is an issue of less
3 volume, but demand for what we are
4 producing is growing, however, a lack of
5 local slaughter infrastructure is the
6 greatest area that we face and one that
7 will severely inhibit opportunities for
8 small and midsize poultry producers in the
9 future.

10 And I do have some
11 recommendations if that would be okay.

12 SECRETARY VILSACK: If you could
13 just summarize them just because we're
14 running out of time. I need to give
15 Christine five or ten minutes.

16 MS. PRIDGEN: I think that USDA
17 needs to finalize some mobile meat
18 processing unit regulations so that we can
19 get back up and going to help get local
20 poultry slaughter infrastructure within
21 communities to help rebuild this local food
22 system.

23 And what's desperately needed is

1 we need a requirement to allow states to --
2 to allow all states to allow 20,000 bird
3 slaughter out from under USDA -- under this
4 USDA exemption until this poultry -- the
5 USDA poultry slaughter infrastructure is
6 rebuilt. So we need that as an interim
7 situation.

8 USDA grants and loans need to be
9 clearly targeted to facilities for smaller,
10 midsized independent producers or either
11 producers form a cooperative.

12 The other things we really need
13 for USDA to -- to -- USDA's Rural
14 Development funding for business and
15 industry loans in order to guarantee these
16 loans for the bricks and mortar
17 construction on small and mid scale
18 slaughter facilities.

19 I would like to ask for more
20 coordination across the Rural Development
21 Program. For example, the USDA value added
22 grant provides for feasibility studies.
23 This funding would -- could be used by a

1 group of poultry farmers to work with
2 economic development entities to see how
3 many chickens would need to be grown in
4 order to build a processing facility.

5 Also, I'd like to see USDA SSIS
6 to work with owners of small, independent
7 red meat slaughter houses to add a poultry
8 slaughter line and to help them with
9 facility design so that they could meet the
10 regulations.

11 The last thing I would like to
12 say is I would like for you to consider how
13 best to implement these recommendations.

14 And what I want you to think
15 about is if the next generation finds that
16 the only pathway into poultry farming is to
17 incur huge amounts of debts with no
18 assurance of being able to pay it back,
19 they may wisely decide not to farm.

20 SECRETARY VILSACK: We just had
21 an interesting briefing yesterday with the
22 national press and some of the press in
23 Washington, D. C. about *Know Your Farmer*

1 *Know Your Food.*

2 We just completed an inventory, a
3 mapping inventory of all the processing
4 facilities in the country both in terms of
5 cows, in terms of pork and in terms of
6 poultry, and also the rendering facilities.
7 And tried to match it up with where the
8 smaller producers are so that we could
9 determine where the gaps are.

10 Our Rural Development folks were
11 in the room, they are a part of *Know Your*
12 *Food*, and they are interested in using the
13 program -- this industry loan program to
14 try to make loans available to those who
15 want to get into that business.

16 And, as you know -- I mean, you
17 noted, we were are working on regulations
18 relative to these small and local
19 communities. And we have already begun to
20 fund a number of them and we will continue
21 to do that.

22 So there is a process right now
23 in the last year in the Obama

1 Administration to try to create some energy
2 for that type of activity.

3 Shane, let me give you an
4 opportunity to comment briefly on the
5 GIPSA, DOJ issue and then I'd like to turn
6 it over to Christine for any questions or
7 comments she has.

8 MR. WOOTEN: I've never had --
9 I've been fortunate, I haven't had some of
10 the situations these other growers have and
11 concerns and things that have happened to
12 them.

13 So, personally, I would -- I
14 don't know much about the GIPSA regulations
15 and stuff.

16 But the only thing I would say
17 about it is maybe make it more public of
18 how to start that process because, you
19 know, I've never needed to, but if I did, I
20 wouldn't know where -- where to start.

21 SECRETARY VILSACK: Well, mention
22 was made of Dudley Butler. And I just --
23 you know, just so you know, this guy is

1 here today doing his job. His farmstead
2 was recently, for all intense and purposes,
3 totally destroyed, with the exception of
4 his home, as result of recent -- recent
5 tornado.

6 So, Dudley, we appreciate you
7 being here notwithstanding your own
8 personal responsibilities.

9 MR. BUTLER: Thank you.

10 MS. VARNEY: Mr. Secretary, I can
11 say the panel -- and I can speak for me,
12 and I have lots of follow-up questions that
13 I don't think I'll be able to get to today.
14 So you can expect to hear from me.

15 But, Mr. Staples, let me say I
16 fully expect you will not experience
17 retaliation by virtue of your presence
18 today, but if you do, you call me at this
19 number.

20 What I really want to follow-up
21 on, Secretary, is this competitiveness on
22 the contracting side. And I have a couple
23 of questions that I'd like to get the

1 panelists think about if we don't have time
2 talk about now, so certainly during the
3 break and afterwards.

4 I'm very interested in your
5 experience after 23 years when you were
6 terminated.

7 Were you able to switch
8 integrators?

9 Were you able to go somewhere
10 else?

11 MS. MORISON: No, we weren't able
12 to switch integrators. Again, even though
13 there's four companies in the area, what
14 one wants, they all want.

15 ASSISTANT ATTORNEY GENERAL
16 VARNEY: How did that -- how does that
17 actually work?

18 I would think that a grower with
19 your -- with your reputation should in a --
20 in a competitive market would be fairly --
21 it should be fairly easy to switch?

22 MS. MORISON: It -- it really --
23 I don't think it really matters as far as

1 reputation goes, it's just a matter of they
2 won't put chickens on the farm and they
3 won't give you a contract, you know.

4 The upgrades that were demanded
5 of us, had we gone to another company, they
6 would have said the same thing.

7 And even though, you know, we had
8 a good growing history, we wouldn't have
9 one with another company, we would have
10 been starting out at the very beginning
11 with a record with a new company.

12 ASSISTANT ATTORNEY GENERAL

13 VARNEY: So, then, it's a reduction in
14 capacity if they're not replacing it or are
15 they expanding somebody else's capacity?

16 What happens when --

17 MS. MORISON: All the --

18 ASSISTANT ATTORNEY GENERAL

19 VARNEY: -- you're taken -- when your
20 contracts are terminated, is capacity just
21 reduced in your area or do they --

22 MS. MORISON: No. They -- they
23 get other people to build houses or, you

1 know, they phase in more birds at other
2 places.

3 No, they -- every year in our
4 area they are increasing production. More
5 -- more birds are being produced every
6 year.

7 ASSISTANT ATTORNEY GENERAL

8 VARNEY: And I'm very interested in the
9 upgrades that you-all have talked about.

10 Can you tell me a little bit,
11 because I'm here to learn, I don't know
12 that much about your industry.

13 What, in your view, are the kinds
14 of upgrades that are reasonable and
15 appropriate and right for the integrators
16 to be -- wanting from their growers?

17 And what are the kinds of baskets
18 of upgrades that are, in your view, are
19 used basically to -- to take you out of
20 business, which is what I'm hearing.

21 What do you say to that?

22 MS. DOBY: Well, sometimes the
23 upgrades can be -- it depends on what

1 they're asking. Now -- and another thing,
2 it might be the company -- okay. You
3 started out building houses by the
4 company's specs, okay.

5 And then the company, they
6 decide, well, you know, we're -- we're not
7 going to grow this six pound bird anymore,
8 we're going to grow a nine pound bird.

9 So that means although you just
10 built these houses four years ago, you're
11 going to have to go back in debt \$80,000
12 because we want these big fans put in
13 there. We want more cooling system put in
14 there because we're going to this bigger
15 bird and it's got to be cooled more.

16 So the grower foots that expense
17 for the company to grow the birds that's
18 going to make them more money.

19 And the thing about it is when
20 you put those upgrades in sometimes like
21 the companies will say, "Okay, we're going
22 to give you -- you do this and we will give
23 you a little bit extra".

1 But that extra will never cash
2 flow to the pay for that expense. And
3 that's where the grower gets in pretty much
4 debt problem.

5 MS. PRIDGEN: What I would like
6 to see is from our family's experience and
7 the community's experiencing in North
8 Carolina, these companies are always
9 looking -- when they're looking at
10 expansion, they're looking for new houses,
11 I mean, the newest houses that they can
12 get.

13 And what I had talked about
14 earlier that happened is when the tobacco
15 allotment buyout was going on, there were
16 farmers who had houses that had been taken
17 on by this company that were former Perdue
18 Growers and they were taken on by Case
19 Farms.

20 And in that situation they built
21 two new houses to replace the
22 specifications for Case. But what Case did
23 was went out and talked to some farmers who

1 didn't have -- didn't grow poultry, into
2 building brand new houses for them.

3 And, so, when they got those
4 brand new houses, those new farmers to
5 start growing, they went back and dropped
6 those houses that they had initially taken
7 on as the former Perdure Growers.

8 So, now, this farmer may have
9 four houses or six houses on his property
10 and maybe only two of them have chickens in
11 them and the other four, even though they
12 have the same equipment in them, you know,
13 don't -- don't have that.

14 ASSISTANT ATTORNEY GENERAL

15 VARNEY: One other question that I have
16 that I think I will probably have to
17 follow-up or I'll find it, or anyone could
18 tell me, are you in co-ops?

19 Are there co-ops for the growers?

20 Does it work for you?

21 MS. DOBY: There was one a co-op
22 and it was closed. And that was the last
23 one.

1 ASSISTANT ATTORNEY GENERAL

2 VARNEY: And why don't co-ops work?

3 You're all shaking your head no.

4 Tell me why.

5 MR. STAPLES: They probably

6 would. It's just -- I guess you need to

7 know some poultry growers. It's just hard

8 -- it's hard to get a lot of poultry

9 growers to say yes to anything.

10 ASSISTANT ATTORNEY GENERAL

11 VARNEY: Any other thoughts?

12 MR. WOOTEN: Also we have several

13 grower based companies -- programs and --

14 and organizations.

15 I think the -- we had mentioned

16 earlier about the debt and the --

17 ASSISTANT ATTORNEY GENERAL

18 VARNEY: Right.

19 MR. WOOTEN: -- and -- and I

20 think a lot of growers are afraid to get

21 too involved with anything that would go

22 against the status quo because of their

23 debt.

1 ASSISTANT ATTORNEY GENERAL

2 VARNEY: Well, Secretary, I have a lot of
3 work to do from this. And I want to really
4 understand our role in the GIPSA process on
5 the complaint side.

6 I'm wondering why complaints are
7 treated confidentially until a certain
8 point in time.

9 I think there's probably more
10 streamlining we could do.

11 Whether or not GIPSA has the
12 authority, we can certainly provide troops
13 and help and do what we can do.

14 I want to understand more about
15 the contracting practices and see what we
16 can do to help make sure that that's a
17 competitive marketplace.

18 And I want to thank all of you.
19 I know you take time out of your -- out of
20 your livelihood to come here and talk to us
21 and on my part to educate me.

22 Thanks.

23 SECRETARY VILSACK: I want to

1 join with the Assistant Attorney General's
2 remarks about -- to the panel. I want to
3 thank you for taking the time and being
4 able to share, not only your personal
5 stories, but, in some cases, some painful
6 stories of friends and neighbors who have
7 been impacted by this industry.

8 My commitment to the folks who
9 are here today and to poultry growers
10 across the country is to continue to work
11 hard with Dudley and those in the GIPSA
12 area to make sure that our regulatory
13 system is as good as it needs to be to make
14 sure that growers and producers have a fair
15 shake. I mean, at the end of the day
16 that's ultimately what it's about.

17 I, too, have learned a good deal
18 here.

19 And I'm sure, Dudley, it's
20 strengthened his resolve as well to do a
21 good job.

22 This is obviously an issue that
23 -- that will require a very close analysis.

1 The Congress has directed us to do that in
2 the 2008 Farm Bill.

3 We began that process with the
4 rules we published last year in an effort
5 to try to make greater equity in a
6 relationship and to make sure that folks
7 had notice that contracts were going to be
8 terminated, that they weren't left without
9 any opportunity to try to seek alternative
10 contracts and alternate opportunities.

11 But this is obviously a difficult
12 issue, a set of difficult issues.

13 And I might say that it is
14 reflective of a deep concern that I share
15 with you today, and that is, about the
16 future of our rural communities generally.

17 I think it is very important for
18 the rest of the country to know what you
19 know about the challenges and struggles of
20 producers in this country.

21 I think the rest of us take what
22 you-all do for us for granted, whether it's
23 the producers, or whether it's the folks

1 who process and slaughter the livestock or
2 the folks who -- who pick our fruits and
3 vegetables along the entire stream here,
4 we, as a country, do not appreciate and do
5 reflect our appreciation for those who give
6 us a safe, abundant, affordable supply of
7 food, which is really puts us in a much
8 more competitive circumstance economically.

9 So we owe you a fair shake. And
10 I'm committed to doing that as long as I'm
11 the Secretary of Agriculture.

12 With that, let me ask you to show
13 your appreciation for the panel and we will
14 reconvene shortly after lunch.

15 (Whereupon, the taking of the
16 proceedings were recessed from
17 approximately 12:00 p.m. to
18 approximately 1:00 p.m., after
19 which the following proceedings
20 were had and done:)

21 MR. FERRELL: I think we'll get
22 started.

23 In the front, and the people in

1 the middle, if you want to provide comments
2 -- if you want to provide a comment, you
3 should have picked up a ticket at the -- at
4 the front of -- as you came in the
5 building.

6 And what I'm going to ask is, I'm
7 going to ask -- there's going to be a
8 couple of options here.

9 We have two microphones up front
10 here. And if about, you know, five to ten,
11 twelve people can get in a -- in a row on
12 each side in front of the microphone.

13 And you're going to have two
14 minutes to provide some comments.

15 Our goal is to get as many folks
16 who would like to provide a comment the
17 ability to do so.

18 So as you come up to the
19 microphone, we'll have someone that's going
20 to take your ticket from you. So that way
21 we know that everyone who wanted to provide
22 a comment has -- has been given the
23 opportunity to do so. And then we'll pick

1 this up again later on this afternoon.

2 For -- for growers who do not
3 want to speak at the microphone, we have
4 other -- some other options as well.

5 Straight out these double doors,
6 down the hallway, we have a conference room
7 off to the left. And we have some GIPSA
8 employees that will take your comments
9 directly that way as well.

10 So if you -- it's up to you where
11 you would like to provide your comments.

12 So why don't we go ahead and get
13 started and we'll start on this side.

14 BROTHER DAVID ANDREWS: Thank
15 you. My name is Brother David Andrews. I
16 am hear reading the statement of a grower
17 who not only couldn't -- was afraid to come
18 as well as afraid to speak. So I'm
19 speaking on half of someone else.

20 First of all, let me give a word
21 of gratitude for all the time that you have
22 dedicated to this process. You and your
23 time is greatly appreciated.

1 From a grower's perspective I
2 want to assert that the system is broken.
3 The current system is one that favors the
4 integrators and allows for the manipulation
5 of outcomes to growers primarily through
6 the tournament system.

7 While the lack of competition
8 creates one set of problems, the tournament
9 system creates another set. It takes money
10 from the growers and gives it to another
11 group.

12 The grower has no control over
13 the quality of the feed that gets
14 delivered, nor how much of each type is
15 delivered.

16 Another compound -- component to
17 the cost equation is the chick cost. The
18 integrator has complete control over the
19 quality of the chicks delivered to the
20 farm.

21 Another form of manipulation is
22 to exclude the best growers and worse
23 growers in the average cost calculation.

1 Another aspect of the tournament
2 system is related to time between flocks.
3 The tournament system benefits the
4 integrators when farms similar in
5 performance sell in the same week. This is
6 easily achieved by manipulating out times
7 and grouping similarly performing farms.

8 The tournament system that is
9 common in the poultry industry is the only
10 example that I know of that has the
11 employees-growers subsidizing the success
12 of the employers.

13 Thank you.

14 MR. FERRELL: Okay. We'll start
15 over here. If can you introduce -- if you
16 can mention what your name is, too. Thank
17 you.

18 TOM GREEN: Mr. Butler, poultry
19 growers and other interested parties. My
20 name is Tom Green and I'm a former Coffee
21 County, Alabama poultry grower. Before
22 that I -- I had a dual military career. I
23 was an infantryman.

1 And I served in the aviation
2 branch as a pilot.

3 I flew combat missions in Vietnam
4 and also served as a public affairs officer
5 at the Army Aviation Center.

6 I went into the poultry growing
7 business in 1990.

8 I was 52 years old at the time.
9 We were both excited about going into the
10 new business, totally different from
11 anything in our past. Poultry fit our
12 plans to take us into our golden years.

13 We invested a little more than
14 \$500,000 to build four 500 foot poultry
15 houses on our 90 acres of land just south
16 of Enterprise. And we depended entirely on
17 company advice and the SBA and our bankers.

18 The SBA financed -- they didn't
19 finance, but they guaranteed our loan.

20 As frequent problems arose
21 repetitively we -- we sought advice from
22 other growers. And over time formed a
23 cooperative that gave us better prices on

1 supplies and equipment. And all growers
2 said that we could fill outside of the
3 company influence that was bringing our
4 prices down.

5 It also served as a forum in
6 which growers could come together, discuss
7 issues and express solutions.

8 We communicated with the USDA
9 packers and stockers to initiate
10 investigations of irregular suspected and
11 greater activities.

12 We appealed to DOJ's Antitrust
13 Division on issues.

14 I had one substantive complaint
15 forwarded to the DOJ from packers. And the
16 action -- for an action review. It was
17 returned to me 14 months later without
18 action.

19 As a cooperative we participated
20 in workshops to improve our company-grower
21 relations. Contract equity was our primary
22 goal.

23 Our contracts continued to be

1 written on a flock-to-flock basis and could
2 be terminated by either party with a 10-day
3 notice for any reason or no reason at all.

4 These contracts were written at
5 the grower's expense for equipment, housing
6 upgrades and no regard for compensation to
7 offset expenses.

8 In October 1995 Hurricane Opal --
9 Opal blasted through Alabama and took out a
10 large number of poultry farms. Many of the
11 more vulnerable, older farms were totaled.

12 This gave the integrators an
13 opportunity to bring new projects on, which
14 they vigorously pursued.

15 Along with the expansion of new
16 farms, the integrators demanded upgrades
17 for tone ventilation and new equipment for
18 the older farms, for the ventilators on
19 those farms, which, at that time, would
20 have been a one hundred thousand upgrade to
21 our debt load.

22 Our new -- our new contracts
23 contained upgrade requirements.

1 Also contained a demand for
2 growers to sign mandatory arbitration in
3 order to settle any disputes that may come
4 up.

5 Any -- any grower not signing the
6 arbitration clause by January 15, 1996,
7 will be terminated and would not receive
8 chickens. This was also brought to the
9 attention of the packers and stockers. And
10 they sent somebody down to investigate and
11 it resulted in nothing.

12 MR. FERRELL: Sir, if you can
13 make -- we're going to try to make sure we
14 get everyone as possible.

15 MR. GREEN: Okay. I've got one
16 paragraph left.

17 MR. FERRELL: But in our next
18 round of comments, we're going to try to
19 get as many people so you might be able
20 take another crack at it.

21 We just want to make sure that
22 everyone has, at least, once chance.

23 MR. GREEN: Okay. This was the

1 straw that broke the camel's back -- broke
2 this camel's back. And my -- Ruth and I
3 talked about it at length about the
4 principles, about what happening to us.

5 We talked to lawyers, packers,
6 Birmingham SBA, everybody. Nobody could
7 help.

8 We were not allowed to sell our
9 houses and we were not allowed to go with
10 any other of the other companies of the
11 three that were working in our area.

12 Ruth and I chose to stand our
13 principles. We did not give up a
14 fundamental right to access the public
15 court of law and guaranteed -- which is
16 guaranteed by our Constitution, regardless
17 of price.

18 I had flown too many combat
19 missions defending that Constitution
20 before.

21 It was truly ironic that
22 protecting one right, we lost another. We
23 lost the right to property. We lost 77

1 acres, four outstanding poultry facilities
2 and five years of hard work. It was sold
3 for a hundred and seventy-seven thousand
4 dollars salvage.

5 We were denied our right to
6 property by the company acting
7 unconscionably and in my lawyer's mind,
8 they were criminally acting.

9 Thank you.

10 CRAIG WATTS: My name is Craig
11 Watts. I've been a contract a poultry
12 producer since 1992. I'm careful not to
13 use the term independent because I do not
14 feel today that we're independent, I feel
15 like we're more of a captured supplier.

16 The competition on the production
17 end of -- as it relates to us, the growers,
18 it does not exist, it does not exist.

19 We have no voice in an industry
20 that we're so heavily invested in. Growers
21 mortgage farms and homes based on an
22 assumption that the relationship with the
23 poultry company will be long term and

1 mutually beneficial, but what we get is a
2 growing agreement with no security at all.

3 Contracts can be terminated at
4 any time for any reason and as growers we
5 have no recourse.

6 Contracts can be changed at any
7 time for any reason. And we're, you know,
8 forced to sign a contract whether we like
9 it or not on a take it leave it basis
10 because, you know, we can either sign it or
11 face bankruptcy. It's almost like asking a
12 question, would you rather drown or burn?
13 Either way, it's not a good way to go.

14 Another major issue is a method
15 of compensation, which this has been beat
16 to death, but it's called the ranking
17 system or the tournament system. I've
18 heard it called a reward system, when it's
19 actually the grandest Ponzi scheme that's
20 ever been invented.

21 Timing is everything. What you
22 get, who you get, when you get it has more
23 to do than any managerial decision that

1 I'll ever make. And -- and also influences
2 my compensation, you know.

3 The ranking system serves as a
4 cost control method for the companies.
5 That's what it boils down to. It's no
6 reward system for a grower, you know.

7 They say, "Well, there's some bad
8 growers come out here and you're
9 complaining".

10 I've got proof different. For
11 what it's worth, I'm a very above average
12 grower, but I see the faults in it. For me
13 to make it up here, somebody is getting rid
14 of down here. That's the way I see it.

15 Anybody in this room knows that
16 there is no such thing as a level playing
17 field, the inputs. There's just too many
18 variables. Quality of chicks. Quality of
19 feed. The feed deliveries. And the beat
20 just goes on, you know. The stuff that's
21 outside of our control is almost endless.
22 That is irrefutable.

23 But when they want to compensate

1 us, they pretend we've got a level playing
2 field.

3 All I ask you to do, as Congress,
4 is prohibit poultry companies from being
5 able to cancel our contracts just
6 arbitrarily.

7 I ask the USDA and the Department
8 of Justice to declare the ranking system
9 unfair and deceptive.

10 Thank you.

11 WARREN GRANGER: Good afternoon.
12 I'm Warren Granger from Alva, Oklahoma.
13 I'm a former poultry farmer of 22 years. I
14 grew chickens for a large Arkansas multi
15 national company.

16 This hearing is a monumental
17 event for growers in America. As a poultry
18 grower I spoke out about the unfairness of
19 the contracting system through state and
20 national poultry organizations and any
21 media that would listen.

22 Several pieces of state and
23 national legislation were introduced over

1 the last three decades, only to be stifled
2 by lobbyists of big chicken.

3 Numerous complaints were filed by
4 me and many others to the Packers and
5 Stockyards Administration, but to no avail.

6 Growers were told that the PS&A
7 has no teeth to enforce legitimate claims
8 of the many injustices inflicted on growers
9 as is David against Goliath.

10 15 years ago I secretly recorded
11 the broiler plate pay clerk telling me how
12 I and members of the Oklahoma Contract
13 Poultry Growers Association were targeted
14 and how my grower pay was manipulated for
15 trying to bring about change to an unfair
16 contracting system.

17 This silent recording was turned
18 over to the PS&A at that time. We were
19 told that the DOJ, Department of Justice,
20 was understaffed and only went after the
21 big stuff.

22 Recently 50 poultry growers in
23 Southeast Oklahoma filed a lawsuit against

1 a giant poultry company from Arkansas for
2 fraud, negligence and violation of the
3 Oklahoma Consumer Protection Act.

4 Groups of seven growers at a time
5 are scheduled for separate trials over the
6 course of the next several months.

7 The first trial ended in April
8 with the first group being awarded 8.3
9 million. Punitive damages were rewarded
10 against the company.

11 And by the way, my secret
12 recording of 15 years earlier was used as
13 evidence in this trial.

14 Question, why are some of our
15 land grant universities advocating for the
16 large poultry farmer?

17 Right here today we have a PhD
18 that will be on this panel after while that
19 testified for the giant Arkansas
20 corporation in the Oklahoma trial from
21 Oklahoma State University.

22 I thought land grant universities
23 were suppose to research and teach

1 prospective ag producers viable methods to
2 produce food and fiber as to receive a fair
3 and equitable return on investment.

4 Why are PhD's testifying for big
5 corporations against the growers?

6 The poultry farming business is
7 misaligned. We need your help to level the
8 playing field.

9 I would like to say thank you to
10 the Secretary of Agriculture and the U. S.
11 Attorney General and all these other
12 officials for hearing the concerns of
13 farmers across America.

14 Thank you.

15 MR. RUDY HOWELL: My name is Rudy
16 Howell and I'm thankful y'all are listening
17 to us.

18 I have grown birds 15 years and I
19 am very concerned about the payment system
20 that being based on true competition.
21 Grower pay can be easily manipulated by the
22 company.

23 For instance, incorrect feed

1 deliveries, incorrect feed weights,
2 inaccurate bird count and easily changing
3 documentation, all which affect grower's
4 ranking and pay.

5 I feel like the USDA and the
6 Department of Justice should take
7 aggressive action to enforce the law
8 against unfair and deceptive trade
9 practices and acknowledge the current pay
10 system as unfair and deceptive.

11 Thank you.

12 MR. LAMAR JACKSON: My name is
13 Lamar Jackson. I've been growing poultry
14 for 30 years. And I would like to thank
15 you people for coming here today,
16 distinguished guests. I could spend all my
17 time thanking you for just being here.
18 It's a great pleasure to have somebody to
19 listen to us.

20 We, as growers, appreciate your
21 concerns for our well-being in becoming
22 successful growers in these United States.

23 Integrators, in general, want

1 everything left alone. They want no new
2 laws to interfere with their business as
3 usual policy as they have it now.

4 The system is definitely a broken
5 one in extreme need of repair.

6 This administration has an
7 opportunity to help individual growers to
8 supply our nation, as well other nations
9 with a healthy food product, poultry.

10 We need the USDA packers and
11 stockers to mandate policies that enable
12 our already existing enforces, along with
13 the Department of Justice, to be able to
14 rigidly enforce and prohibit mandatory
15 upgrades on housing and equipment that are
16 totally unnecessary to the cost effective
17 production of poultry in this country.

18 These upgrades require countless
19 more hours of kilowatt energy to produce
20 these birds to market. Keeping the grower
21 in constant debt gives the integrators
22 assurance that these growers will have to
23 continue to grow poultry for them.

1 This eliminates competition and
2 thus makes their stronghold on growers
3 evident.

4 Let me say that numerous growers
5 are not attending these workshops because
6 of being afraid of retaliation on them by
7 their integrator.

8 A grower this morning has already
9 been threatened by his service person if he
10 attends and speaks at this forum.

11 All the integrator has to do is
12 make sure that particular grower receives
13 inferior chicks to start a grow out with
14 and maybe short his feed delivery, which
15 can lead to a higher feed conversion rate.
16 This happens, really it does.

17 This is the type of undue fair
18 practices that need to be addressed now.
19 Our payment ranking schedule is also
20 totally unfair.

21 On a farm the size of mine, which
22 is a hundred and eight thousand broilers,
23 my paycheck, in a five-week grow out

1 period, can vary as much from \$22,000 gross
2 down to \$11,000 for the same amount of
3 chickens.

4 This makes it impossible to meet
5 financial obligations and be able to plan
6 any future endeavors.

7 Please enforce the laws already
8 in place by giving the USDA packers and
9 stockers real authority to do their jobs in
10 order to help us and this industry.

11 Thank you very much for your
12 time.

13 MR. BUTLER: Hold on, hold on.
14 This is Alan Christian, my deputy. I want
15 you to tell him about who got threatened,
16 not -- not right here, just go back and
17 tell him who -- what the name.

18 MR. JACKSON: I sure will.

19 And I did say this, one more
20 time. I've been doing this for 30 years.
21 It might be just 31 because I'm gone, too,
22 but that's okay.

23 MR. MICKEY BLOCKS: I'm Mickey

1 Blocks.

2 The lack of competition of giving
3 geographic regions has led to the
4 integrators with all of the power, this
5 leaves the grower with little or no choice.

6 The grower is given a contract,
7 it's one sided, it's a take it or leave it
8 situation. Companies should not have that
9 much control in a region.

10 DOJ and USDA need to do
11 everything possible to limit this type of
12 power because this power is unfair and
13 deceptive practices have developed, for
14 example, the ranking system, forced
15 upgrades, contracts that can be changed or
16 cancelled at any time.

17 Compensation, as I have not kept
18 up with increases in energy and material
19 costs.

20 These are all signs of a broken
21 system that needs to be corrected as soon
22 as possible.

23 Thank you.

1 MR. ROBBIE STAULTS: I am Robbie
2 Staults from the Shenandoah Valley of
3 Virginia. And I want to thank you for
4 taking time to listen to my comments.

5 I'm here to share my experience
6 of contract poultry production. In 1979 I
7 bought a two house poultry farm contracting
8 with a major chicken company. The income
9 from the farm was enough to allow me to pay
10 labor and my bank note.

11 Things were going so well that in
12 1992 I decided to build two additional
13 houses.

14 After five years, I was required
15 to perform company upgrades for all four
16 houses. During this time operating
17 expenses were on the rise, the pay from the
18 chicken company was not being increased.

19 Now, I have an increased bank
20 note along with increasing expenses, but my
21 income, it remains static.

22 My plans for early retirement
23 began to evaporate. After a couple of

1 years operating in this manner, I came to
2 the realization that I was no never going
3 to pay for these new houses. This is a
4 common cycle that chicken farmers are
5 trapped in.

6 Does that matter, does it matter
7 what state or region you're in, no.

8 That's why today is so important.
9 We need USDA and the Department of Justice
10 to stop requiring growers to install
11 expensive upgrades in their poultry houses
12 at their own expense.

13 And Congress should stop poultry
14 companies from cancelling grower contracts
15 without adequate faults, unless they
16 reimburse growers for the investment they
17 made to service the contract.

18 Thank you for your time.

19 MR. FRANK MORRISON: My name is
20 Frank Morrison. I am an ex-contract
21 poultry grower from Maryland. Our contract
22 was terminated two years ago due to not
23 upgrading to the company standards.

1 One of the major challenges
2 facing contract growers is the ranking
3 system.

4 I have an example, which happened
5 to us. I could purchase propane for 30%
6 cheaper than what the poultry company was
7 charging us.

8 When I informed the company I was
9 going to purchase and supply my own propane
10 as any independent business person would, I
11 was told if I did not -- if I did, my
12 contract would be terminated. Even if we
13 wanted to be competitive, the company will
14 not let us.

15 This contract system has taken
16 away the entrepreneurial spirit of the
17 farmer who has for decades found ways to
18 reduce costs on their farms to stay in
19 business.

20 The USDA and DOJ need to take
21 aggressive action and enforce the law
22 against unfair and deceptive trade practice
23 by the poultry companies.

1 Thank you.

2 MS. VALERIE ROWE: Good
3 afternoon. My name is Valerie Rowe. I'd
4 like to thank you for this opportunity to
5 speak with you today regarding the current
6 situation as a poultry grower.

7 I became a poultry grower four
8 years ago. I did this in an attempt to
9 save a family farm that was in the process
10 of foreclosure due to an unfair contract.

11 That resulted in my elderly
12 inlaws birds being cut off, without notice,
13 on the day of delivery because they refused
14 to make expensive and unnecessary upgrades.

15 The problem has turned out to be
16 an industry wide issue regardless of who
17 you grow for or what type of bird you
18 raise.

19 I have learned that a contract is
20 a contract in name only. Mine was suppose
21 to be a 5-year contract. It has changed
22 four times in as many years.

23 Integrators routinely rewrite

1 these so-called contracts to their benefit
2 wherever they see fit. And depend on the
3 fact that the grower is deep in debt and
4 will sign them out of fear in order to
5 continue getting checks.

6 I thank God my husband and I have
7 nonfarm jobs. Without them, we could not
8 afford paying out of our pocket to raise
9 chickens. We will not be able to continue
10 this much longer.

11 The solution to this systemic
12 problem, the USDA, along with the
13 Department of Justice, must exercise their
14 power and stop these unfair contracts now.

15 Thank you.

16 MR. WILLIAM CRAMER: Thank you.
17 My name is William Cramer and I work for
18 the Interface Center on Court
19 Responsibility. We are a faith based
20 membership organization who investors
21 members own a hundred and ten million --
22 billion dollars in shares in companies like
23 Tyson, Smithfield and Hormel.

1 Our members come from a variety
2 of faiths, Methodists, Baptists,
3 Episcopalians, Catholics and many others.

4 In addition to owning shares in
5 major meat companies, restaurants and food
6 distributors, our members also manage large
7 health care systems that buy a lot of food.

8 Our members are increasingly
9 concerned about the conditions under which
10 their food is produced.

11 They're especially concerned
12 about fair treatment of poultry growers and
13 chicken processing workers.

14 We believe strongly that contract
15 poultry growers are the backbone of the
16 rural economy in the South. When they are
17 paid low prices, they make poverty wages
18 and that hurts rural communities.

19 We also feel that the industry is
20 currently structured as unfair to workers.
21 The lack of competition and poultry
22 processing means companies can violate
23 workers' basic rights and disregard health

1 and safety. As a result, worker turnover
2 at poultry averages about a hundred percent
3 a year. We need goods jobs in rural areas
4 of the South and this industry isn't
5 providing them.

6 There's enough money in the
7 supply chain for everyone to get a fair
8 share, but we need to enforce regulations
9 that promote fair competition so mega
10 corporations like Walmart and Tyson don't
11 take more than their fair share.

12 The poultry processing -- the
13 United of States of America was founded on
14 principles of freedom and free enterprise.
15 Without fair competition, we do not have
16 true freedom or free enterprise.

17 The poultry processing industry
18 in America is increasingly monopolized and
19 that is un-American.

20 Our organization and people of
21 faith around the country are watching these
22 hearings and other efforts to restore
23 competition and fairness in food and

1 agriculture in America.

2 We hope to see better enforcement
3 of our existing laws and more effective
4 regulations coming out of these hearings.

5 For people of faith gathered here
6 today I ask you to consider the following
7 questions: If Jesus were here today what
8 would he say about grower fairness and
9 worker justice?

10 Who would he support?

11 Thank you.

12 MS. ANGIE TYLER: Thank you for
13 hearing our concerns and hopefully you're
14 compassionate.

15 My name is Angie Tyler. And I'm
16 the only grower here from Louisiana. So I
17 proudly represent everyone of them. It's
18 been a tough year for us.

19 My husband and I have been
20 raising broilers for 20 years now. And, as
21 I said, I'm the only one here from our
22 state.

23 There's a lot of things that need

1 to be addressed. And this is not one
2 producer, this is not one integrator, this
3 is nationwide.

4 And the decisions that y'all make
5 here today and in the weeks to come, months
6 to come, even years to come, can be
7 remembered by the whole agricultural
8 community historically. This has never
9 been done before.

10 And what we feel is that the USDA
11 must take action immediately on any unfair
12 practices. The poultry farmers in our
13 country are on the brink of collapse.

14 The ranking system of payment is
15 obsolete, it's broken, and it needs to be
16 changed. There's too much room there for
17 manipulation. And there's no checks and
18 balances whatsoever.

19 And because costs have far
20 exceeded the pay raises, producers cannot
21 pay their bills, they can't pay the
22 production costs.

23 Energy has increased so many

1 times more than the pay has increased. And
2 many times the pay has gone down.

3 The USDA needs to enforce laws
4 already in place and investigate these
5 unfair practices.

6 Poultry remains the most
7 economical and healthy source of protein in
8 our country. As the demand in domestic and
9 foreign markets increase, along with the
10 population, our poultry production has to
11 increase also. The farmers are absolutely
12 mandatory for this.

13 And we must ensure, not only
14 survival, but the potential for success and
15 progress as our future. And we're relying
16 on you for that help to make sure that we
17 can stay in business and do our jobs and do
18 it right.

19 And we want to do that job in a
20 marketplace that is fair. It's our
21 future.

22 Thank you.

23 MR. CHRIS SANDERS: Good

1 afternoon. My name is Chris Sanders. I'm
2 with United Food and Commercial Workers.

3 On behalf of my president and the
4 thousands of members and my local union in
5 Kentucky and Southern Indiana, and dozen of
6 people wearing gold shirts in this room, my
7 brothers and sisters, and literally 250,000
8 poultry workers across America, we want you
9 -- to ask you to pay special attention to
10 the needs of folks who kill, cut and
11 process chickens.

12 We're here about competition in
13 issues in agriculture, but agriculture is
14 nothing without consumers and, of course,
15 retailers.

16 So pressure on growers and
17 vendors, producers and us all across the
18 industry come from the margins that are
19 dictated by retailers. I don't mind naming
20 names, I'm talking about Walmart.

21 Until we get some grip on the
22 control that major retailers like Walmart
23 have in this industry, we won't get

1 anywhere.

2 Walmart, of course, is not the
3 only grocery in this industry, but all
4 grocers are taking their cues from the --
5 from America's largest grocer, Walmart.

6 In competition we all know the
7 word monopoly, the control of whenever one
8 supplier has a grip on the industry.

9 But I want us to learn a new word
10 today. It's monopsony. Monopsony is the
11 tyranny of the retailer when all roads and
12 all products goes to one place. And that's
13 Walmart.

14 We have to do something about
15 this because until we do something about
16 Walmart its pressures on agriculture
17 margins, we really won't get anywhere at
18 all.

19 For our people, for my members
20 and my industry, we can't make a living
21 wage until Walmart is able to pay the
22 companies more. It's just a fact, it's
23 reality.

1 There's so much pressure on
2 margins that everybody is getting -- is
3 getting squeezed. And for our folks,
4 Black, White, Hispanic, just doing their
5 best to make a living wage, that will never
6 get any better until we get some
7 improvements in the way that Walmart has a
8 grip on the industry.

9 So I'm here today on behalf of
10 200,000 poultry workers or more. Please do
11 something to put real competition in retail
12 so we can all survive and thrive.

13 Thank you.

14 MR. ANDY STONE: Hello. My name
15 is Andy Stone, I'm from Mississippi. I've
16 got a couple of comments to make on some
17 stuff I heard here today before I get
18 started reading my statement.

19 One of the things that was
20 mentioned here today was communication was
21 a problem in the industry. I can assure
22 not. I've had a lot of communication with
23 my integrator, sometimes at arm length,

1 sometimes no length, nothing changed when I
2 left.

3 And y'all's challenge here today
4 is listen to us communicate to y'all, but
5 if y'all do like the integrator, when I
6 leave, if y'all do anything, we're not any
7 better today than we were yesterday.

8 When I started growing chickens
9 in 1995 I bought land and moved 60 miles
10 from where I grew up. I moved to the
11 broiler capitol of my state.

12 I did this thinking that I had a
13 -- that I had a reason -- that if I had a
14 reason to switch from one integrator to
15 another I could.

16 After a few months into the
17 business I realized that the integrators
18 have an unwritten pact with their sister
19 integrators, "You don't take our growers
20 and we won't take yours".

21 I built three modern houses,
22 equipped it with all the bells and whistles
23 available and approved by the integrator.

1 I had a 15-year note on a \$300,000 loan,
2 but my contract was good for one year.

3 I remember expressing my concern
4 to a company representative and being told,
5 "Don't worry about that, we will always
6 need chickens, that's just how things are
7 done".

8 Six months into my first year my
9 representative came out and said that the
10 company was offering a raise.

11 I said, "Wow, that's good. Six
12 months into the business and already going
13 to give me a raise".

14 However, there was a small
15 stipulation attached to this raise. To get
16 the raise, I had -- I had to add equipment
17 to my houses.

18 I told the representative, "I
19 don't want to add equipment to my houses,
20 they're new".

21 He said, "Fine. If you don't add
22 the equipment, you won't qualify for the
23 raise".

1 So I added the equipment.

2 My problem is that there is no
3 guarantee that my integrator will continue
4 to contract with me. As a result, raising
5 chickens involves a tremendous --
6 tremendous sense of insecurity.

7 This past February I received a
8 letter from my integrator stating, and I
9 quote, "If you fail to provide the proper
10 environment, we may not be in a position to
11 place birds in your care in the future".

12 I received this letter because my
13 service representatives noticed several
14 blind birds on my farm. At the time of the
15 letter my overall ranking was at the 14%.

16 Since that time, overall ranking
17 has climbed and put me in the top 10% of
18 the company, yet I have to wonder one from
19 flock to the next if my company will be in
20 a position to put birds in my care.

21 This insecurity hanging over my
22 head each day that grow chickens. You can
23 argue this and say no one's job is secure

1 in today's economy, but the situation is
2 not the same.

3 Your job is a job. My job is a
4 job with a huge debt attached to it. With
5 my debt load, coupled with my standing in
6 the company, I should not have to worry
7 about the company being in a position to
8 place birds in my care.

9 The situation in contract poultry
10 growing is out of control. The companies
11 have so much power the growers always end
12 up at a disadvantage.

13 It's time for the government to
14 step up and rein in these companies so that
15 growers are treated more fairly. That's
16 why the hearing today is so important, but
17 a hearing isn't enough, we need the USDA
18 and the Department of Justice to stop
19 poultry companies from requiring growers to
20 install expensive upgrades in the poultry
21 houses at their own expense.

22 And Congress should stop poultry
23 companies from cancelling growers contracts

1 without adequate cause unless they
2 reimburse the growers for the investments
3 they've made to service the contract.

4 Thank y'all.

5 MR. BRUCE FAULT: My name is
6 Bruce Fault. I'm from Fairmont, North
7 Carolina. And thank you for this
8 opportunity to speak with you.

9 In an effort to remain within the
10 time allotted me, I would like to address
11 the quality of birds that are supplied to
12 me by my integrator.

13 In my experience of 16 years, if
14 I am supplied with a good quality input I
15 am able to grow a good quality chicken.

16 If the quality of the chicks is
17 poor, we are unable to produce enough
18 weight to pay the bills. We work harder
19 with a poor flock than we do with a good
20 flock.

21 Under the current ranking system
22 this can significantly -- significantly
23 impact our overall income. The ranking

1 system is just unfair and needs to be
2 corrected immediately.

3 I would like to see the USDA,
4 along with the DOJ, use the tools already
5 available to them to stop this unfair pay
6 system immediately.

7 Thank you.

8 SHEILA: My name is Sheila. I
9 would like to say that we really enjoy the
10 chicken business and the company we work
11 for, but we would like to see a few changes
12 to be made.

13 We would like the ranking system
14 to be different because of the unfairness
15 of it. Your ranking depends on the quality
16 of chicks, age of your houses, how it's
17 been, premium or not.

18 We cannot control the quality of
19 chicks we get because of such things as
20 diseases, the handling of the eggs and the
21 delivery of the chicks.

22 Things can go wrong not being
23 there on the spot, but at the end of batch

1 we are asked what went wrong, why does
2 certain things happen such as the chicks
3 did not grow, they did not put on weight or
4 they lost their life.

5 And then it starts, you need to
6 upgrade to premium so you can do better.
7 We tried to explain upgrades cost money,
8 which we do not have.

9 And their solution to the upgrade
10 is that you will get the incentive pay,
11 which is a half cent more per pound, which
12 will not pay for all of that, for the
13 upgrades in a reasonable amount of time.

14 And the chicks being with the
15 companies, we would like to see the
16 companies contribute more than just two
17 incentive checks per year for the propane,
18 which is greatly appreciated, if it falls
19 in the right time frame.

20 The farmer has to take care of
21 the litter. And we have to do the PLT, the
22 BWT, the sawdust and light bulbs for two
23 loads per house per year. The utilities,

1 such as gas, propane, diesel, electricity,
2 water, supplies and maintenance.

3 It would be nice if the company
4 would give more and give a cost of living
5 raise since we have not had a raise in
6 about three years or more, but that does
7 not stop the rising prices of the gas and
8 the diesel, propane, the electricity and
9 supplies.

10 My husband and I have had to go
11 to our banker several times to try to get a
12 solution to keep paying our loan and our
13 bills from batch to batch.

14 And the banker has said to us he
15 does not know how we have survived and how
16 we are making it. Now we are trying to
17 reduce our loan just to make it.

18 And we are trying to -- just
19 trying to pay our bills and the credit
20 cards off from the propane.

21 Again, I would like to stress as
22 to how you much we enjoy the chicken
23 business and would like to see the USDA and

1 the Department of Justice declare the
2 ranking system as an unfair system and to
3 stop poultry companies from requiring
4 growers to install expensive upgrades in
5 their poultry houses at their own -- at our
6 expense.

7 MR. JAMES SHACKLEFORD: Yes. My
8 name is James Shackelford and I'm here
9 representing RWDSU Workers of America. And
10 it's an honor to be here today before you.

11 You know, after working 18 years
12 in a poultry facility, poultry plant,
13 chicken plant, you know, and the things
14 that you see go on and people talking about
15 it's not enough, you're not making this,
16 you're not making this. It's just a
17 blessing for me to see both sides of it
18 because I never knew, you know, this side
19 of it.

20 I was granted to be a
21 representative -- a union representative
22 three years ago and now I see the other
23 side. And that's why I'm here today.

1 And it's not about I, I, I, it's
2 we, it's a team thing. It's no I in team
3 because we have the growers, you have the
4 producers, you have the packers, you have
5 the laborers.

6 And the laborers, you know, I
7 come and stand look out for the laborers
8 today because without the laborers you have
9 -- you have no -- no product. I mean, you
10 know, the worker they -- they put it on the
11 market.

12 Also consumers, all of us are.

13 I jus left a restaurant just a
14 minute ago and they couldn't keep enough
15 off it on the bar, you know.

16 So it's not shortage of it, we've
17 just got to figure out and get an
18 understanding of where -- where the monies
19 -- the monies -- you know, thoroughly
20 distribute the monies, you know.

21 We're here today standing
22 together for -- for my workers because
23 without them, you know, you're not going to

1 have -- I heard a guy say today about
2 vision for your child, you know, the
3 grower, I understand that.

4 But also the worker have a vision
5 also. And their vision is to want their
6 kids to work in a poultry plant and make a
7 decent living.

8 And, you know, after working 30
9 years in a poultry plant, leave with a
10 decent pension where you can enjoy a decent
11 life and not to automatically write the
12 worker off because the worker do play an
13 important part also.

14 So I just -- I pray that God
15 bless the producer and God bless the packer
16 because when you guys get together and you
17 can come together in -- in peace, it makes
18 it great for the worker.

19 Thank you.

20 MR. TOMMY HINES: My name is
21 Tommy Hines. I'd like to comment on the
22 systemic problem that the poultry industry
23 has within intimidation to the growers.

1 I've spoken to numerous growers
2 about attending this meeting, but most of
3 them were afraid to come for fear of
4 retribution from their poultry company.

5 As growers we have invested
6 everything we own in this business. The
7 industry does not treat the grower as a
8 contractual partner with the company, we
9 are merely someone hired to take care of
10 the birds for them.

11 You have to do as you are told or
12 you could be refused placement of birds or
13 could face a drop in the number of birds
14 places or worse.

15 We need there to be more
16 oversight from the USDA, Department of
17 Justice or help from Congress and more
18 enforcement of the Packers and Stockyard
19 Act.

20 There is a lack of competition
21 from the companies for the growers in
22 business now and, therefore, no, incentive
23 to change the behavior towards growers.

1 There should be mutual give and take and
2 mutual respect as business partners.

3 I'd like to say thanks to the
4 growers here today for taking this
5 opportunity to show support for this
6 workshop and a chance to be counted and our
7 hope to change this industry.

8 Thank you.

9 MR. STEVE ADCOCK: I'm Steve
10 Adcock. I'm Legislative Coordinator for
11 the Campaign for Contract Agriculture
12 Reform.

13 Poultry is arguably the most
14 broken of agricultural markets where the
15 processor sector has such total domination
16 that producers are coerced, not only to
17 sign one-sided take or leave it contracts,
18 but also to borrow as much as a million
19 dollars to build facilities on their own
20 farms for the right to grow the company's
21 chickens with merely a one flock,
22 seven-week guarantee of payment.

23 And the payment, itself, often

1 represents a negative return on investment.

2 To anyone hearing this it would
3 sound like one of the worse investments
4 possible and anyone would be foolish to
5 fall into such deal, but the growers that
6 get sucked into the systems are not stupid,
7 far from it.

8 For a poultry grower the cycle
9 begins with deception about the income
10 stream a grower will enjoy if they build
11 the expensive chicken houses and signed a
12 contract.

13 But the rosy plans of income are
14 never put into writing, so there's no way
15 to enforce the promise -- the promises.

16 The contracts themselves are
17 quite another story, but once the grower
18 bites the hook and goes deep into debt they
19 start a cycle of debt burden from which it
20 is very difficult to escape.

21 The attention of USDA and DOJ
22 that you-all are giving to this issue today
23 is quite historic. And I applaud both

1 agencies for hosting this discussion and
2 for asking the right questions.

3 But this process will be
4 meaningless unless it ushers in an era of
5 aggressive enforcement. Both the Packers
6 and Stockyards Act, as well as the DOJ
7 Antitrust authorities, to restore
8 competition and fairness to the poultry
9 sector.

10 Though not perfect, these
11 statutes are very strong and the failing of
12 enforcement by your predecessors has been
13 nothing short of shameless.

14 In closing, it's important to
15 mention that the growers who are speaking
16 here today do so at their own risk. And
17 you've heard a lot about that.

18 The threat of retaliation for a
19 grower speaking out publicly is well
20 documented. And even in the last 48 hours
21 we've had growers who have been threatened
22 not to attend this meeting and not to speak
23 out.

1 So for every grower here today,
2 there are many others who have stayed home
3 for fear of retaliation. And that is more
4 than just a communication problem.

5 So I strongly urge both agencies
6 to do everything in your power to protect
7 those growers here today from retaliation
8 and to take it the aggressive enforcement
9 action to bring some balance of market
10 power to the poultry sector.

11 Thanks.

12 MR. B. J. HYDE: Hi, I'm B. J.
13 Hyde. I just wanted to touch on how we get
14 paid.

15 We get paid by a feed conversion,
16 the amount of feed it takes to get the
17 birds to a certain weight. The problem
18 with that is the feed gets manipulated a
19 lot.

20 For example, during the
21 wintertime, a lot of times they'll put this
22 corn mash in it, instead of feed grain,
23 that they get out whiskey bales instead of

1 corn, you know, should be in it. And we
2 have no control over that whatsoever. It's
3 -- it's just absolutely -- the feed
4 conversion is where they want it. I mean,
5 it's -- we have nothing to say about it.

6 I also want to touch on some of
7 these upgrades that they make you do. They
8 also wasn't you to use certain vendors and
9 such as that, they won't accept anybody
10 else. So they kind of manipulate us that
11 way, too.

12 That's all I've got to say.

13 Thank you.

14 MR. OMAR HOLCOMB: Hi, my name is
15 Omar Holcomb. I live in South Marshall
16 County. And I want -- two things I want to
17 talk to you about.

18 One is the political
19 ramifications that are used in chickens.

20 And the other is a little
21 anecdote that happened to me recently.

22 Since I've been doing this for 17
23 years chickens has been used as -- has been

1 a -- been used in politics.

2 The first time was in the '90's
3 when the steel imports for Russia were --
4 were -- protections, trades, were put on
5 there. And -- and several ship loads of
6 chickens had to turn around and come home
7 from Russia.

8 And because somebody is
9 protecting one industry, the farming
10 industry takes it.

11 And recently the -- there was
12 protection put on tires from China. And
13 China put -- turned around on chickens and
14 stopped it.

15 So our industry is being used as
16 a, if you want, a political football. And
17 it's a two billion industry in Alabama.
18 And I doubt the tire industry in Alabama is
19 a two billion, but it's being used that
20 way.

21 The second is a little anecdote
22 that happened to me two weeks ago
23 yesterday. As I had my chickens -- these

1 growers will relate this.

2 I had my feed up, chickens
3 already, the time came, the catchers all
4 showed up and there we sat because there
5 was a bomb threat at both processing
6 plants.

7 So we sit there for about six
8 hours. And I'm talking to field rep, who's
9 really been good to me.

10 She said, "Okay, they'll just
11 give you an hour each hour you wait, plus
12 20%".

13 I said, "Okay, what's our
14 options?"

15 "Well, you can wait another six
16 or seven hours, they'll come back at one
17 o'clock in the morning.

18 By then my birds will have been
19 off feed 18 to 20 hours before they pick
20 them up. That means another six hours
21 before they process them, or, said, "We can
22 go in there and lower all the equipment,
23 see if we can get some feed out".

1 And -- because I was totally out
2 of feed.

3 "And then we can raise -- and
4 then we can raise it all up and then
5 process them".

6 Okay. We'll just catch them at
7 one o'clock in the morning. That's what we
8 both decided.

9 Well, I called them a few days
10 later. "Well, what did they decide to do"?

11 "You competed with everybody
12 else", just like that. They lied to me
13 just straight to my face. I had to compete
14 with them.

15 And that wasn't quite fair,
16 nobody on Monday, Tuesday or Wednesday or
17 Friday had to wait for bomb threats to
18 clear out.

19 Now, I can live with that, but I
20 don't like to be lied to.

21 So thank you very much.

22 MR. TONY GOOLSBY: Thank you. I
23 appreciate this opportunity to get to

1 address this -- this forum. I thank God
2 for America and I thank God for being born
3 an American. And I just praise God that
4 I'll die as an American.

5 I was born in a little house on a
6 farm in 1950, delivered by a midwife. I
7 don't know how old I was before I ever seen
8 my first doctor. I've lived on a farm all
9 my life. All my ancestors were farmers.
10 And we go back before the Civil War. Some
11 of my ancestors was here before the White
12 man got here.

13 In 1997 there was a farm came up
14 for sale, a hundred and five acre farm
15 close my mother and daddy's homestead
16 there. I wanted that hundred and five
17 acres so bad, but I couldn't figure out a
18 way to buy it.

19 I had a pretty nice little home
20 and 20 acres down at Rainesville, Alabama.

21 And this company named Cook
22 Poultry moved into the area and announced
23 they were building a new poultry breeder,

1 hatchery and all that kind of stuff. And
2 they were wanting people to -- growers --
3 wanting to do growers, sign contracts and
4 build houses.

5 I talked to my banker and I
6 talked to my wife. And my banker said,
7 "Yeah, we can go with you on it if that's
8 what you want to do".

9 So in 1998 we started the loan
10 process. She and I sold everything we had.
11 Took our savings. We invested probably a
12 hundred and fifty to a hundred and
13 seventy-five thousand of our money.

14 We borrowed \$600,000 from the
15 bank that was guaranteed by the USDA. And
16 that guarantee was -- had an insurance
17 premium on it that I paid thousands of
18 dollars for that guarantee.

19 Okay. In a few years into my
20 contract with Cook Poultry they delivered a
21 new set of hens to my farm. Later on that
22 week they came in with a new contract. And
23 they said, "Mr. Goolsby, we want you to

1 sign this new contract".

2 And I said, "Well, I -- we've got
3 a contract".

4 "No, we need you to sign this new
5 one".

6 This is in 2002. And I had a
7 contract that was still in effect. Had a
8 brand new set of hens in these houses that
9 was the top of the line, the best set of
10 hen houses in the area.

11 And I said, "Well, I don't -- I
12 don't understand. I don't see why that you
13 want me to sign a new contract when -- when
14 we're under contract with you now".

15 "Well, that's just the way it is.
16 We want you to sign this new contract".

17 I said, "Well, I just -- I think
18 I'll just go with the one I've got".

19 And like Mr. Wooten earlier in
20 the day had said -- I'm from the same
21 county he's from.

22 There's five different
23 integrators in that area up there, you'd

1 think there would be a lot of competition.
2 I had the best set of houses in the
3 country.

4 I told them, "I'll just go with
5 this set of hens and I'll -- and I'll see
6 if I can find me a contract with another
7 integrator".

8 They said, "No, you can't do
9 that. You either sign this contract or
10 we're going to come pick these hens up".

11 Now, these hens is already on the
12 farm, done been there a week or two.

13 And I said, "Well, you can't do
14 that, we've got a contract, you signed it
15 and I signed it and it's a legal binding
16 contract, you can't do that".

17 "If you don't sign this new
18 contract, we're going to pick them hens up.
19 We'll be here tomorrow morning at six
20 o'clock to pick them up".

21 The next morning at six o'clock,
22 that was on a Wednesday, I was sitting in
23 the driveway when they pulled in and I

1 said, "You need to turn around and go back
2 because you're not getting these hens.
3 I've got a contract with you. And it's a
4 legal binding contract. I'm going to hold
5 you to it, you're not getting these
6 chickens".

7 And, so, they left and they went
8 back.

9 On Thursday they had nine lawyers
10 in the Judge's office in the De Kalb County
11 Courthouse behind closed doors. And they
12 got Circuit Judge Randell Cole to issue
13 them a writ of seizure notice against me
14 without my knowledge, without my
15 representation, without any -- any
16 opportunity for me to give my side to the
17 Judge to show him my contract or anything.
18 He issued them a writ of seizure.

19 He sent a copy to the District
20 Attorney's office.

21 He sent a copy to the Sheriff's
22 office on Friday.

23 I didn't know the first thing

1 about it.

2 Monday morning, about daylight, a
3 deputy knocked on my door. And I'd done
4 been up since about 3:30 because of --
5 you've got to get up early and go feed the
6 chickens, make sure the thing is going. So
7 I was sitting there drinking some coffee.

8 They -- they hand me this writ of
9 seizure.

10 And they say, "Tony, the Judge
11 has ordered us to come out here and see
12 that the chicken company gets those hens
13 out of your houses".

14 I said, "How can he do that? We
15 -- I haven't been notified, I haven't had a
16 hearing. I've got a contract. How can he
17 do that"?

18 "Well, we're just doing our job".

19 "Well, okay".

20 They go to chicken houses. And I
21 get in my truck and I go down there.

22 There's things that needs to be
23 done when you're going to catch chickens.

1 You've got to get your waters up and stuff
2 like that.

3 And I had read every word of the
4 writ of seizure and it didn't say anything
5 about me not going to the chicken houses.

6 Me -- it just said I wasn't to
7 interfere with them catching them.

8 I go down there and I raised my
9 waters. And I tried to get my equipment
10 ready. And the deputies come. And I come
11 out of the chicken houses there.

12 And they walk up to me and say,
13 "What are you doing down here"?

14 I said, "I'm trying to take care
15 of my equipment I've got \$500,000 in".

16 And they said, "Well, you're not
17 suppose to be there".

18 And, so, I said, "Well, all
19 right, I'll go home".

20 Well, they had the cars pulled in
21 behind my truck and had me blocked.

22 And they said, "No, you're going
23 to stay here until the chief deputy and the

1 investigator gets up here".

2 I said "No, if you'll just move
3 your cars, I'll go to the house and get out
4 of your way".

5 "No, you're going to stay here".

6 I hadn't broke any law. I hadn't
7 -- you know, I had threatened anybody,
8 anything.

9 So I get in my truck, it's cold
10 weather. I'd just had an accident about a
11 month before, broke my back, broke all my
12 ribs, busted my skull. I was just nearly a
13 dead man. Barely could walk. Sitting in
14 my truck with the heater on and the other
15 police come up.

16 And they jerked the door open and
17 dragged me out of my truck and downed me
18 and handcuffed me and throwed me in a
19 police car and carried me to jail. Kept me
20 in jail all day, all night. Didn't book
21 me, didn't fingerprint me or nothing until
22 the next morning about four o'clock, 4:30
23 in the morning.

1 They came and got me and
2 fingerprinted me and charged me with
3 interference with a government operation,
4 put a \$500 bond, and released me on my own
5 recognizance. Told me I could call my wife
6 to come get me.

7 I went home and took a shower and
8 I drunk come coffee, made a few phone
9 calls, and I went Fort Payne. Went to my
10 lawyer's office and gave her \$5,000 to
11 start defending me on them arresting me and
12 everything.

13 Went to the District Attorney's
14 office, he wouldn't talk to me.

15 Went to the Judge's office, he
16 wouldn't talk to me.

17 Went to the Sheriff's office, he
18 wouldn't talk to me.

19 I go back home. I get on the
20 phone and I called a man that was here
21 earlier today, I wish he was still here,
22 Mr. Ron Sparks, the Commissioner of
23 Agriculture. And he knows me and I know

1 him.

2 And I told him what had happened.

3 And he said, "Tony, I'll" -- this
4 was Tuesday about dinner time, a little
5 after dinner.

6 He said, "Tony, I'll be there the
7 first thing tomorrow morning and we're
8 going to check into this and we're going to
9 do something about this".

10 MR. FERRELL: Sir, if you could
11 just sum it up.

12 MR. GOOLSBY: Tomorrow morning
13 never came. I called two or three days
14 later they let me talk to his assistant.

15 His assistant said, "Mr. Goolsby,
16 I assure you we're looking into this, you
17 will hear from us".

18 That was in 2002. And I've never
19 heard from them.

20 The poultry company sued me, Cook
21 Foods sued me and Santa Rosa Farms for 4.4
22 million dollars for forcing them into
23 taking such a drastic action.

1 We went to court. And the jury
2 awarded me a verdict just like that
3 (snapping fingers).

4 The Judge threwed the verdict out
5 and ruled in the chicken company's favor.

6 I -- I appealed it down to the
7 State Supreme Court. And the State Supreme
8 Court throwed it out, ruled in the chicken
9 company's favor, but there was one legal
10 point that I had that they couldn't back up
11 on is the jury gave me a verdict, a
12 favorable verdict. I had the right to come
13 back to county court in De Kalb County and
14 start all over again. And, so, we did
15 that.

16 Cook finally settled with us. We
17 had done sold most of our farm. Done sold
18 our chicken houses to keep our home. We
19 had to sell just nearly everything we had
20 so we'd have a home to live in.

21 So that's what Cook Poultry done
22 to me. That's a personal -- all these is
23 personal stories that's been told today and

1 everyone of them is true. Every word
2 that's been said today is true.

3 This antitrust thing, the
4 Attorney General, the USDA, you've got the
5 power, but these lobbyists for these
6 integrators and these other big, huge
7 conglomerates that are buying the
8 legislation and buying the actions --

9 MR. FERRELL: We've got some
10 other people who need to talk, your two
11 minutes --

12 AUDIENCE: Let him talk, let him
13 talk. Let him talk. Let him talk.

14 MR. GOOLSBY: I'm proud to be an
15 American, you know, I love this country,
16 but we need our government to step up for
17 us and quit -- quit working for the
18 lobbyists in Washington and down here in
19 Montgomery and start working for the
20 people. Our Constitution says, "We the
21 people".

22 I thank you for the opportunity
23 to speak. And I'm sorry for -- for my

1 emotions, I apologize. Thank you.

2 MR. STALLINGS: Thank you.

3 MR.FERRELL: I think for the
4 remaining four folks, if you want to go
5 ahead and give your comments, and then
6 we'll go to the next panel.

7 And then we'll pick it up with
8 more comments after that.

9 Thank you. Proceed.

10 MR. GARY KUSHNER: Thank you for
11 this opportunity.

12 My name is Gary Kushner. And I
13 serve as General Counsel to the National
14 Chicken Counsel, which is the National
15 Trade Association representing a lot of
16 those bad guys we've just heard about. I
17 guess this is one of those days where
18 timing is everything.

19 In fact, I hesitated to rise to
20 the microphone during today's session.
21 Believe it or not, I felt it important that
22 the many fine people who left their farms,
23 traveled long distances to come and share

1 their grievances deserved to have that
2 opportunity.

3 And it's hard not to be moved by
4 the passion with which they tell their
5 personal stories.

6 But I felt it important,
7 particularly hearing Mr. Goolsby talk about
8 personal stories, to offer the perspective
9 of a lawyer, at least, who represents the
10 integrated poultry industry.

11 And I only want to make one
12 point, and it is just one point, and it's a
13 legal point because that what these
14 workshops largely about.

15 And that is that I don't know the
16 facts of any of the specific allegations
17 that we've heard today. And it may well be
18 that there are contracts that are unfair,
19 that are -- that there are contracts of
20 adhesion as a lawyer would call them. That
21 there are contracts that have been
22 breached, that may we'll be the case.

23 But I've yet to hear anything all

1 day, other than the word competition, that
2 links those contracts and those grievances
3 that these fine people have shared with us
4 to anti-competitive conduct.

5 And, certainly, you folks at
6 GIPSA and at the Department of Justice are
7 aware that the law is well settled. Eight
8 Federal Circuit Courts have made very clear
9 that in order to bring a case under the
10 Packers and Stockyards Act alleging unfair
11 or unjustly discriminatory or deceptive
12 practices, there must be a showing of
13 adverse effect on competition.

14 That's not to say there are no
15 remedies for ill will or for any particular
16 personal experience that may not have been
17 handled properly that may be unjust, it may
18 represent a breach of contract.

19 We have a long and large body of
20 competent -- contract law well settled in
21 common law and in many states did provide
22 ample remedy.

23 And where there is true and --

1 and demonstrated anti-competitive activity,
2 there is the Packers and Stockyards Act as
3 well as the -- the number of laws that
4 Assistant Attorney General Varney touched
5 upon earlier today.

6 So I just wanted to make that
7 clear that it's not to belittle any of the
8 stories that we're told today, they are
9 heartfelt and heartwarming, but to just
10 stay clear with purpose, as I understand it
11 of these workshops has been, and that's to
12 discuss competition and the laws under
13 which competition is regulated in the
14 United States.

15 Thank you very much.

16 MR. DONALD WALKER: I'm Donald
17 Walker from Oxford, Alabama. I'd like to
18 take this time and to talk about something
19 that's very dear to me.

20 Valerie helped me with this
21 comment last night, but, Ms. Valerie, I'm
22 not going to do this, I'm going to shoot
23 from the heart.

1 What Mr. Goolsby just said,
2 folks, is happening to a lot of people.
3 This room is full of people that's
4 bleeding, not from the heart, but from the
5 hip and it's time this was corrected. The
6 integrator has run over growers for years
7 and years.

8 I've been in the poultry business
9 ever since I was eight years old. I've
10 grown up in the poultry business. I've
11 been in it since '90 on my own.

12 But it's time that things
13 changed, not just here in Alabama. We've
14 got people all over the Southeast here
15 that's hurting. And it's time that
16 something happened, some way, somehow,
17 things has got to change or the Third World
18 is going to feed us.

19 This box lunch we got out there
20 for seven dollars and a half, may cost us
21 \$20 ten years down the road if something is
22 not changed, people.

23 Young people not wanting to get

1 in the chicken growing end. And I've got
2 two children and I wouldn't advise either
3 one of them to do it. They've seen what
4 it's like, they don't -- they don't want
5 it. Mother and daddy is having to deal
6 with it, so they don't want any part of it.

7 But, again, I just thank you for
8 the opportunity to be here and I appreciate
9 this time.

10 ALICIA HARVIE: My name is Alicia
11 Harvie. And I'm here today representing
12 Farm Aid, which is the national nonprofit
13 organization working with family farmers to
14 stay on their land and to thrive.

15 At Farm Aid we hear from family
16 farmers every day. We've operated a 1-800
17 hotline since our beginning in 1985. And
18 last year we had just under 1,000 contacts.

19 What we're hearing from poultry
20 growers has us deeply worried. Nobody
21 knows more about the problems of
22 concentration in the poultry sector than
23 family farmers.

1 But you may notice the smaller
2 turnout at this workshop and smaller lines
3 at other hearings you hold this year.
4 Family farmers are fearful of retaliation
5 from integrators if they comment and for
6 very good reasons.

7 We've heard troubling stories
8 about what happens when a farmer speaks out
9 against unfair, one-sided and deceptive
10 contracts, many of the same stories you're
11 hearing today.

12 Farmers are provided with poor
13 quality feed or sick chicks that die within
14 days.

15 Poultry companies halt or delay
16 the delivery of new birds.

17 Farmers are required to make
18 expensive upgrades so they're borrowing
19 without fair compensation, or their
20 contracts are suddenly drop altogether.

21 The lack of antitrust enforcement
22 in recent decades has been responsible for
23 the misguided trajectory and limited

1 balance of our current food system.

2 The result has been a severely
3 concentrated marketplace in which power and
4 profit are limited to a few at the expense
5 of countless, hardworking family farmers
6 who ask nothing more than a level playing
7 field.

8 We regret that recent
9 administrations have turned a blind eye to
10 the very real threat of corporate
11 concentration to farm family livelihoods to
12 these international food security.

13 We applaud this administration's
14 historic commitment to address issues of
15 competition and concentration in
16 agriculture.

17 And we urge you to make full use
18 of experience and wisdom of the family
19 farmers you're hearing from today. They
20 are very courageous to be here speaking out
21 against a contracting system that is not
22 just unfair, but plain wrong. Please don't
23 let them down.

1 Thank you.

2 MR. TERRY TUCKER: My name is
3 Terry Tucker. I'm proud to say that I am
4 fourth generation farmer in the community
5 that I live in. And I hope it don't end
6 with me as far as my family is concerned.
7 I've been in the poultry business for 18
8 years.

9 We did quite well in the poultry
10 business, but, you know, I also know the
11 different stories and I know the
12 manipulations that go on as well in the
13 poultry business.

14 I saw my neighbors, you know,
15 lose their farms. I saw both spouses
16 having to go out and take other jobs just
17 to make their payments.

18 And, you know, as Americans we
19 pride ourself with equality, you know.
20 We'll send our -- our children, our
21 daughters, our sons, our husbands, our
22 wives off to war to fight for this
23 equality.

1 And this ranking system that we
2 have in the poultry industry is ridiculous,
3 you know. You've heard a whole different
4 things that's going on in this ranking
5 system, you know, from bird delivery to
6 feed and several others. And I want to
7 address two of those.

8 And I want to address the bird
9 delivery. One of the things is the fact
10 that, you know, we don't have any control
11 over that if -- I raise straight run birds.
12 And that means that's mixture between male
13 and female birds.

14 Well, if I get more male birds on
15 my farm and Joe down the road, you know,
16 gets more females, guess who's going to --
17 if he's -- if he's a halfway decent poultry
18 farmer and sees after his chickens, I'm
19 going to beat him out because I got the --
20 I got the more dominant bird, I got the
21 male bird. Now, how fair is that?

22 Feed delivery, I want to address
23 that for just a minute, you know. If I run

1 out of feed during the course of a grow out
2 and let's just say -- I'm going to throw a
3 number out there. Let's say I'm out of
4 feed for 48 hours. Well, let's say Joe
5 down the road, he's not out of feed, we're
6 selling together under this so-called fair
7 ranking system, that's what the integrators
8 say, we know better, guess who's going to
9 beat me out, Joe is going to do it.

10 We really need your help from the
11 Justice Department and the Department of
12 Agriculture to look into this ranking
13 system because it's killing us.

14 Yeah, I've made money in the
15 poultry business, I can't stand here and
16 tell you that I haven't, but I've also lost
17 money due to this ranking system.

18 So, please, we need your help.

19 Thank you.

20 MR. FERRELL: I think we're going
21 to go ahead and just take one more comment.
22 And then we'll go to the next panel and
23 we'll get to that panel; then we'll pick up

1 with more comments then.

2 So if there's still people that
3 would like to provide comments, we'll allow
4 more time to do that later on in the day.

5 MR. BRAD CAINEY: Thank you for
6 taking my comments. My name is Brad
7 Cainey. I'm from Nashville, Tennessee.
8 And thank you to Farm Aid who informed me
9 about these hearings.

10 My reason for coming down from
11 Nashville today is because I feel -- I have
12 to step off topic, I'm not a chicken
13 farmer, I'm a chicken eater.

14 I believe the health care crisis
15 will not be solved until we address ag
16 policy and consumer preferences.

17 David Kessler, the former of head
18 the FDA, says in his book, *The End of Over*
19 *Eating*, it took 30 years to challenge and
20 change the social stigma of cigarette
21 smoking. He estimates that one-quarter of
22 the population, 75 million Americans or
23 more, are addicted to food. We need to

1 change this epidemic of obesity. It is
2 national security.

3 In this past decade life
4 expectancy dropped. The processed food
5 part of our western diet is shortening
6 lives.

7 According to Michael Pollen food
8 use to be 18% of household expenses. It is
9 now at 8 or 9%, thank God, but at what
10 price is this food so cheap.

11 Health care and health insurance,
12 in the same period, went from 10 to 18%.
13 Again, national security.

14 The medical term for the lost of
15 farmers is called a bleed out. One million
16 farmers is not safe, two million farmers is
17 safer. We need to grow more farmers.

18 If the trend continues to
19 urbanization, let's bring production to
20 urban areas.

21 Finally, on the subject of
22 justice, criminal, not civil penalties
23 should be applied to all polluters. And

1 this should reach international law.

2 Thank you.

3 UNIDENTIFIED SPEAKER: I've been
4 in the chicken business some 15 years.
5 I've watched the chicken business and
6 integrators evolve to a level that the
7 average farmer can no longer sustain a
8 living at, nor can we carry the rest as
9 we're asked to carry.

10 15 years ago growers only had a
11 7-year mortgage on new houses. Now, new
12 houses take 15 to 20 years to pay off with
13 very minimal base rate increase.

14 I don't know if these farmers are
15 able to pay off these houses.

16 I just want to tell my story.
17 There was a hundred and fifty growers
18 involved in a regional shut down. As we
19 was growers, we was ranked in the top big
20 bird division of Pilgrim Pride.

21 February 27th we got announcement
22 that our plant was going to be closed. By
23 May all birds was gone. 600 houses sitting

1 empty. In those houses who's going to feed
2 our children?

3 I would say shut down with no
4 reflection to the growers and producers.
5 We were told by Pilgrim staff we was the
6 best at what we did. Our community was
7 desiccated and most growers was heavily
8 indebted, owe \$200,000. And we had growers
9 with new houses and with only three grow
10 outs.

11 900 jobs have been lost. Most of
12 our houses have been -- I mean cost of
13 upgrades.

14 Our local businesses are
15 suffering because of loss of income in
16 local economy. A hundred and six million
17 dollars jerked out of our economy.

18 All the equity each farm has
19 worked so hard to build overnight with our
20 house has turned into huge liabilities.

21 Paying insurance, taxes, no
22 birds.

23 Several -- several growers were

1 not able to survive with such a hit. And
2 the uncertainty of our future most of our
3 local farmers have managed to keep credit
4 with our local suppliers and banks.

5 Now, we are asked to restart this
6 process and put our integrator's balance
7 sheets back into the green.

8 This process of restarting our
9 houses has costs us unnecessary thousands
10 of dollars; however, we do have another
11 chance now. Our plant we'll reopen.
12 Almost a year and a half has past. We will
13 miss two years of income where the interest
14 has not -- has stopped -- has not stopped
15 accruing.

16 I do give Don Jackson, the CEO of
17 Pilgrim's Pride, an enormous amount of
18 credit. He managed to do the unthinkable
19 by saving Pilgrim's Pride through one of
20 the gloomiest times of financial ruin.

21 I would also like to take time to
22 give our local and state leaders credit.
23 They worked with us around the clock and

1 our CEO to put a feasible plans together
2 which led to the reopening of our plant.

3 But the balance of my future is
4 still, and my grower friends, is in the
5 hands of Pilgrim's. I would like to ask a
6 series of questions that will hopefully
7 ensure such trying times never occur in my
8 lifetime, my son's lifetime or future
9 generations.

10 How can my fellow growers be
11 protected from such an event ever happening
12 again?

13 Should we be paid for down time
14 or should we get start up money?

15 We are a team, integrators and
16 growers and poultry workers, too.

17 Should we have longer contracts?

18 Should we have guaranteed loans
19 from integrators?

20 Now, you tell me the industry
21 needs, it just not one company's problem,
22 but it's the whole industry's problem that
23 needs fixing.

1 We thank you for your time.

2 And we thank you for the
3 opportunity to grow birds again on our
4 farms.

5 We hope the changes will make a
6 brighter future for all the growers and
7 integrators. We are one team.

8 What can you do for us growers?

9 We are the South Georgia Division
10 of Pilgrim's Pride, Douglas, Georgia, the
11 best of the best.

12 MR. FERRELL: If our panelists
13 can come up to the table and we will get
14 started.

15 MR. FAMILANT: Hi everybody. My
16 name is Norman Familant. I'm the Chief of
17 the Economic Section of the Antitrust
18 Division of Justice that works on most
19 agriculture matters.

20 And we're going to have a very
21 fast paced discussion among the panelists.
22 We're going to cover a lot of issues.
23 They're going to be many of the same issues

1 that we've been discussing -- you've a been
2 discussing so far today. That's no
3 surprise because those are the issues on
4 everybody's mind, but I think it will be
5 interesting to -- to see -- to get the
6 perspective of this panel.

7 During the -- during this panel
8 we're going to -- we have a plan, we hope
9 it will work. If you have questions, write
10 them down on the index cards that were
11 available when you came in and pass them
12 off to the sides where many of the
13 volunteers in the jackets and the outfits
14 will collect them and bring them up.

15 I'll try to work them in. I
16 won't be able to work all of them. And I'm
17 not sure how much time we'll have left at
18 the end.

19 But the -- but, as you've been
20 told before, there is an open testimony
21 hour directly after us. So, hopefully, you
22 can pose your question then.

23 Let me -- we -- we -- we have a

1 very capable and interesting panel with a
2 -- from a very wide array of backgrounds.
3 And, so, let me introduce them. I believe
4 they're all in alphabetical order here.

5 Benny Bishop currently serves as
6 chief operations officer for Peco Foods in
7 Tuscaloosa, Alabama.

8 He grew up on a poultry and row
9 crop farm. And is a graduate of
10 Jacksonville State University with a BS
11 degree in business administration.

12 Benny has worked full time in all
13 areas of the poultry industry for 40 years.

14 He has served on the Boards of
15 the Alabama Poultry Association, the
16 Arkansas Poultry Federation and is the past
17 president of the Mississippi Poultry
18 Association.

19 Let's see. Sorry for -- because
20 we're in the order here.

21 Max Carnes runs the Carnes Farms
22 in Baldwin, Georgia. His growing business
23 started in 1977 when he built three houses.

1 He has grown that business to 16 houses
2 now.

3 That entire time he had
4 contracted with Fieldale Farms.

5 He's a graduate of the University
6 of Georgia.

7 He has two other business
8 interests. He's in the paving business and
9 on the Executive Committee of the Georgia
10 Highway Contractors Association of which he
11 is the past president.

12 He -- he also has an interest in
13 Zaxby's Food Operations in North Carolina,
14 but Zaxby's does not buy its broilers from
15 Fieldale Farms.

16 Let's see. Next we have
17 Professor Michael Dicks. Doctor Mike Dicks
18 was raised in rural Orange County,
19 California. He began his agricultural
20 career working in the vegetable fields and
21 the ranches of the Irvine Company.

22 He was active in FFA and Ag
23 Explorers.

1 He obtained degrees in
2 biochemistry and animal science from
3 California Polytechnic State University in
4 1975.

5 Doctor Dicks served in Kenya for
6 three and a half years with the U. S. Peace
7 Corps.

8 He obtained his Master's and his
9 Doctorate in agricultural economics,
10 specializing in natural resource policy,
11 from the University of Missouri.

12 He has worked with USDA's
13 Economic Research Service in Washington,
14 D. C.

15 And is currently at Oklahoma
16 State University in the area of
17 agricultural policy.

18 Doctor Dicks has analyzed
19 contracts, production records and financial
20 information for hundreds of poultry growers
21 in eastern Oklahoma and western Arkansas.

22 And has measured the economic
23 impact of the poultry industry on a local,

1 regional and state economies. He has a
2 large number of professional publications.

3 He currently operates a hundred
4 head Angus cow calf operation.

5 And is a member of numerous
6 community, church and social organizations.

7 Number -- let's see -- sorry.
8 Next is John Ingram.

9 John Ingram is from Forest,
10 Mississippi. He's currently a poultry
11 grower for Cook Foods of Mississippi.

12 He also builds poultry
13 facilities.

14 He served 10 years in the U. S.
15 Army on active duty and six years with the
16 Scott County Sheriff's Department.

17 He also worked as a business
18 manager at Killian's Motors, Incorporated,
19 Forest, Mississippi, for 12 years.

20 Let's see. Next to him -- I'm
21 sorry for the shuffling around here -- is
22 Cindy Johnson.

23 Cindy Johnson had an early

1 exposure to the poultry industry and a
2 grasp of how the industry works through her
3 father who has a PhD in poultry economics.

4 She majored in agriculture at the
5 University of Georgia and graduated from
6 the University of Georgia Law School in
7 1982.

8 After working in Valdosta for two
9 years, Cindy moved with her husband and son
10 to Dalton, Georgia.

11 She was offered a job as an
12 appellate lawyer with the insurance defense
13 firm of Kenny and Kim, where she remained
14 for six years.

15 In June of 1990, she joined the
16 law firm of Waycaster, Morris, Johnson and
17 Dean. Since 1990, Cindy has represented
18 hundreds of growers in state and federal
19 courts and in pre-suit negotiated
20 settlements.

21 In 2002, she left her former firm
22 to join her husband in their practice in
23 Cohutta, Georgia.

1 Next is Doctor Robert Taylor.

2 Professor Taylor is the Alpha
3 Distinguished University Professor in
4 Agricultural Economics and Public Policy of
5 the College of Agriculture at Auburn
6 University.

7 Prior to joining the Auburn
8 faculty in 1988, he held faculty positions
9 at the University of Illinois, Texas A&M
10 University and Montana State University.

11 He had conducted applied research
12 on a wide variety of topics, including
13 market concentration, conservation, buyer
14 power and bio-energy.

15 He's authored or co-authored five
16 books and over 200 articles -- and 200
17 articles and reports.

18 And has testified before Congress
19 on concentration and consolidation in the
20 food industry, particularly on issues in
21 the livestock and poultry industry.

22 And, finally, is Mike Weaver.

23 Mike Weaver farms 350 acres in

1 Pendleton County, West Virginia. He raises
2 Angus beef cattle as well as broilers -- as
3 well as broilers for Pilgrim's Pride that
4 are processed at the Morefield, West
5 Virginia processing plant.

6 He started in the poultry
7 business with turkeys and switched to
8 broilers about six years ago.

9 His broiler facility is comprised
10 of two houses with 94,000 birds per flock.

11 Mike is president of the Contract
12 Poultry Growers Association of the
13 Virginias.

14 He is a retired Special Agent for
15 the U. S. Fish and Wildlife Service.

16 He served as a board member of t
17 he Allegheny -- Allegheny Highland
18 Alliance, the West Virginia Special
19 Olympics Program, the Potomac Highlands
20 Wounded Warrior Outreach and Roritan
21 National.

22 So let's go right away to our --
23 to my first question area. And -- and I'm

1 going to turn to some -- I'm going to turn
2 to specific panelists for the first
3 responses for all of these question areas.

4 Number one, in addressing our
5 trends in poultry panel topic, we first
6 seemed to gain some insight into key
7 changes in poultry production and marketing
8 over the past decade.

9 What changes have occurred in the
10 typical initial investment in the scale of
11 an efficient operation and the time
12 required for each flock to reach maturity?

13 What do we know about the
14 quantity and quality of poultry produced
15 over the last decade and the importance of
16 exports?

17 And I'll, of course, turn to
18 Professor Dicks.

19 MR. DICKS: Thanks, Norman.

20 It's great to be here and thank
21 y'all for coming.

22 It is a great country that we can
23 all come and voice our opinions and be

1 heard. And I hope that we -- we all are
2 heard respectfully.

3 Even -- even university
4 presidents -- university faculty aren't --
5 aren't immune to being victimized or hurt,
6 intimidated.

7 Even this morning I've had groups
8 call my dean and call my president of the
9 university asking for background
10 information and paperwork, Freedom of
11 Information Act to try to get me to cease
12 my participation in these hearings.

13 So those that know me know that I
14 am un-intimidated.

15 Let me -- let me start by giving
16 a few recent changes that, I think, are
17 important just to give -- to give a
18 perspective on the industry.

19 First of all, we -- we -- most of
20 know that the new top cool cell house has
21 largely been adopted by the industry by
22 this time. It's more efficient than the
23 others ones, particularly in terms of

1 energy efficiency, which has been a
2 tremendous help to the growers, although
3 that it is a much more expensive facility.

4 Sometimes -- the last estimates I
5 have on that was from 2007, 2008. Those
6 houses are about \$225,000, which would
7 include all the equipment necessary to run
8 them. That's a fairly substantial
9 investment for one of those houses.

10 And I'm -- I'm saying the typical
11 house is 40 feet by 400 feet.

12 Every farm size has increased.
13 We now -- in my area we're looking at about
14 three houses is the average farm size. I
15 think a decade ago that was probably two
16 houses.

17 The average market age of
18 broilers is 47 days, the same as it was
19 about 20 years ago.

20 The average bird today is heavier
21 than it was ten years ago. It's now about
22 5.63 pounds compared to about five -- five
23 pounds in 2000.

1 Feed efficiency has increased,
2 slightly, but that slight increase is a
3 tremendous gain in terms of profitability.
4 It's gone from 1.92 pounds to 1. -- sorry,
5 from 1.95 to 1.92 pounds.

6 On -- on farm mortality rate
7 dropped from 5% to 4.1%, which is -- which
8 is fairly substantial.

9 And if -- you know, for a cow cow
10 operator to get below 5% would be -- would
11 be a real -- a real thrill.

12 Post-mortem condemnation rates
13 have dropped from 1.22% to .87% in 2009.
14 And, again, that -- that has some real
15 profit potential.

16 And then the last thing is on
17 that trend is that per capita consumption
18 of poultry continues to increase from about
19 80 at the start of decade to almost 90
20 today.

21 So those are the, I think, the
22 things that would indicate improvement in
23 the industry, more profitability, more

1 efficiency.

2 On the other hand there's some
3 things of a wider nature that I think are
4 important for all us to think about. It's
5 being interesting listening to all problems
6 today. And believe me, those things didn't
7 fall short on me. I am sensitive to
8 agriculture producers. I -- I spend a
9 great deal of my time -- I -- I -- I am an
10 agriculture producer. I'm probably out in
11 the countryside. I give 50 to 60 extension
12 presentations a year. And I -- and I do a
13 lot of work with producers.

14 So hearing your stories, I assure
15 that I listen very intently to those
16 stories. They're not much different than
17 the stories I hear from cattle producers,
18 swine producers, wheat producers, corn
19 producers, et cetera.

20 While the trends that I've told
21 you indicate that there is an increase in
22 productivity and efficiency, these other
23 major trends that I think are -- are

1 exceedingly important. And one -- and the
2 things that I think you really need to
3 think about.

4 And I'm sorry that Mr. Vilsack
5 has left because some of these fall on his
6 doorstep as we heard this morning.

7 One of the things that's created
8 some of the problems in the industry is --
9 is -- started in 1994 with the
10 reorganization of USDA. When USDA was
11 reorganized, they took Farmer's Home
12 Administration and stuck into Farms Service
13 Agency. Then FSA.

14 That reduced the staff and also
15 made changes in each one of those offices.
16 And that trend has continued. The total
17 number employees in the FSA -- in the local
18 FSA office has -- has dwindled, as well as
19 the number of FSA offices.

20 And that means there's less
21 people to service those loans and to look
22 and see if those loans are -- are worthy of
23 being delivered.

1 Also, as you all know, we're in a
2 financial situation in this country and the
3 world. And a lot of that has to do with
4 cheap and easy credit policies, not only
5 from the federal government and the Federal
6 Reserve, but on down to the local banks.
7 And I think that's had a tremendous impact
8 on what you're seeing in the industry
9 today.

10 One of -- one of the largest
11 problems I see and I've commented on this
12 before the Senate Ag Committee in 1997, was
13 the Federal Agricultural Improvement Reform
14 Act in 1996. That -- that farm bill, as
15 most people call it, the Farm Bill of 1996,
16 eliminated -- essentially eliminated farm
17 storage programs.

18 And from that time on the
19 government virtually had no more commodity
20 storage programs. And I insisted at that
21 time -- because yields in the country are
22 increasing at a decreasing rate and
23 becoming increasingly more variable while

1 demand continues to increase, at some point
2 that means we're going to have price
3 spikes.

4 And if you'll go back and read my
5 testimony, I said that within a decade when
6 I was asked how long it would be, I said
7 within a decade we'd see some major price
8 spikes in commodities.

9 And I missed it by a year. It
10 was 2008 not 2007. So I missed it by a
11 year, but it is there and it's going to
12 happen again.

13 And some of the problems that
14 you're facing today and that are coming
15 down on the integrators are because we have
16 gotten rid of commodity policy and we're
17 not -- we're not managing supplies any
18 longer.

19 And, so, we're going to see much
20 more variation in -- in feed -- feed
21 prices. Much more volatility and probably
22 a continuing trend upward in those prices.

23 So, I think, you know, again,

1 those are -- that's a -- that's a major
2 policy we're about to revisit. The current
3 farm bill is probably one of the most
4 complicated instruments that I've had a
5 chance to deal with. And I've been doing
6 it for a long time. I know Bob might want
7 to contact -- comment on that himself.

8 I think also reaching people in
9 the last couple of years, meaning the total
10 amount of oil that's all out, is never
11 going to get greater. And -- and we have
12 no energy policy. That's had a tremendous
13 impact.

14 I don't know how many people have
15 said that today, that those rising propane
16 prices and rising electricity prices are
17 squeezing profits. That's certainly the
18 case.

19 If you enter into a contract in
20 2004 for a set price, your propane price
21 between 2004 and 2009 went up from roughly
22 on the retail price for the nation a dollar
23 a gallon to two and a half dollars a

1 gallon. Now, that's a tremendous squeeze
2 on profit. And most people did have a
3 profitability to warrant that increase.

4 That's something, again, that --
5 that falls back in the lap of Congress and
6 the federal government is coming up with
7 that energy policy.

8 Finally, just one last thing. I
9 want to make sure that before I -- before I
10 get done that today I want to -- I want to
11 talk about this financial performance
12 sector. That's one thing that hasn't
13 changed.

14 You know there is, and I've heard
15 a lot of that today. There is one thing
16 that is common is agriculture, and I know
17 you've all heard this. There's an idiom
18 that come from 50 years ago I heard when I
19 was a kid, "Cash poor and asset rich".

20 And that literally means I've got
21 great profitability, which the U. S.
22 Agriculture sector does. Your --your
23 industry, your -- you growers, most

1 agriculture groups in this country have a
2 very high profitability. I'll explain that
3 if you'd like. But you have a very low
4 dollar sales per amount of fixed assets you
5 have. And that causes you to have a low
6 return on investment.

7 And essentially what I'm telling
8 you is, you're making good money, but
9 you're using it all to pay for your assets.
10 And I think you know that. That's true for
11 every part of agriculture.

12 MR. FAMILANT: Some follow-up
13 comments from Max Carnes.

14 MR. CARNES: I'll give a short
15 one. Thank you. Going back -- we started
16 our family in 1977. And, at that time, we
17 built three houses for about \$26,000 each.

18 The last houses that we built
19 were 500 by 50. And they're approximately
20 a hundred and seventy-five or 225,000. I
21 can't remember which now.

22 But going back over some of the
23 changes that we have seen through the

1 years. When we started out we had the old
2 time eight foot drinkers that you would
3 slosh out or rub out with your brush and
4 whatnot.

5 And, of course, now we've gone to
6 the nipple drinker that's a lot more
7 efficient and a lot easier to operate.

8 Our lighting program has changed
9 dramatically. And to begin we had 24 hours
10 of daylight. And now we manipulate it for
11 the different size birds that we want. And
12 we -- we've gone from an incandescent bulb
13 to a fluorescent bulb and back to an
14 incandescent. And that will probably
15 change again, too.

16 Also, when we first started, we
17 had the regular pancake brooders in the
18 middle of the house. And then that has
19 changed to a forced air heater on the side
20 of the house. And that has gone back now.
21 We have a combination of the brooders and
22 the forced air heaters.

23 Of course, a cool cell is one

1 thing that I think has helped us more than
2 anything else in the world.

3 To be able to cool the birds, I
4 know always before when the chickens got
5 about 93 degrees you might as well -- or
6 the inside temperature got to be 93
7 degrees, you might as well plan on start
8 picking up some dead birds.

9 That has been, I think, the
10 biggest innovation that -- that we have had
11 since I've been growing chickens.

12 Also, now, we have the computers
13 that control everything in the house, which
14 makes everyone's job a whole lot easier.
15 It's just a -- a -- a big, big help to have
16 that temperature change so minutely so that
17 everything works out well.

18 The other thing that we have
19 changed in our houses, when we first built
20 our houses we had posts in the house. All
21 of those have been changed now and we have
22 all clear span houses.

23 So we have seen tremendous amount

1 of innovations in the -- in the farming
2 industry. And it has been a big help.
3 It's -- it's made our jobs a lot easier,
4 but you still have to pick up those dead
5 chickens. I can't fix that for you.

6 Thank you.

7 MR. FAMILANT: Any -- any brief,
8 follow-up comments by any of our panelists?

9 On this question, yeah.

10 Everybody okay?

11 Let's go to question two. Let's
12 get to the contracts.

13 We'll deal with the compensation
14 aspects, that is, the tournament ranking
15 system and requirements for improvements in
16 additional investments and the two
17 questions that follow this one.

18 But, first, let's address the
19 basics, although there surely is variation
20 in the contracts, what are the key
21 non-compensation terms in the contract with
22 which you are familiar?

23 What's typical -- what's the

1 typical term of the contract?

2 When there is concentration --
3 when there is -- excuse me.

4 When there is a contraction in
5 the market, do the integrators cut back on
6 the frequency of flocks in the contracts,
7 or do they cut back on the number of chicks
8 placed?

9 And I'm going to ask Mr. Bishop.

10 MR. BISHOP: Thank you for the
11 opportunity to be here and speaking on
12 behalf of my company Peco Foods, and also
13 on behalf of the poultry industry.

14 The key non-compensation terms
15 that we have in our current contract, of
16 which I'm most familiar with, there's a --
17 or are a long list of these things.

18 But, first all, we've got to
19 consider the terms of broiler contracts.
20 And it's important to keep them in
21 perspective the nature of a processor's
22 business. And my company is the same way.

23 First of all, all us, as poultry

1 processors, are producing chicken products
2 for, not only the U. S. food supply, but
3 also a global market.

4 It's critical these products be
5 wholesome.

6 And, second of all, we have
7 customers and markets out there that demand
8 a specific sized bird and a uniformed bird.
9 We can't just arbitrarily go out and grow
10 any kind -- any size bird, any kind of bird
11 we want to, we have to have something to
12 market.

13 Processors and our customers rely
14 on hundreds of growers to help us grow
15 these various type birds and various sizes.

16 The chicks that we own, of
17 course, as processors, are entrusted to
18 growers. They have to properly care for
19 them, not only from a cost competitive
20 standpoint, but also from an animal welfare
21 standpoint. We all depend on these animals
22 for our very existence.

23 You talk about non-compensation

1 terms of contracts, first of all, the
2 processor provides chicks, feed and
3 medication.

4 The processor also provides
5 management guidelines and technical service
6 support.

7 The grower provides housing,
8 equipment, labor and utilities to care for
9 these chicks and grow them to the proper
10 weight.

11 The contract prohibits the grower
12 from having other fowl on the farm and
13 prohibits the growers -- grower from using
14 any other type feed, rodenticides
15 pesticides, insecticides, feticides, any
16 kind of medication that's not provided by
17 the company or the processor or approved by
18 the processor.

19 The processor is looking for that
20 grower's individual skills and experience
21 on that farm. We contract with them. And
22 any successor or reassignment of that
23 contract unless approved by the processor.

1 The processor is also given the
2 right to access on the grower's farm for
3 the purpose of inspecting the flock and the
4 grower's operations.

5 The contract generally provides
6 that a grower is an independent contractor
7 and not an employee of the grower or the
8 company -- the processor or the company.

9 Any veterinarian's reports
10 considering -- concerning flock health is
11 also available to the grower upon request.

12 The processor agrees to pay for
13 damage on the farm caused by his employees.

14 Feed and live birds are to be
15 weighed by bonded weigh masters.

16 Feed trailers will be sealed if
17 requested by the grower.

18 Growers have a right to be a
19 member of and participate in any
20 organization or association they choose.

21 The contract generally has
22 default provisions with an opportunity to
23 cure, in except in circumstances where

1 there is serious violations that might
2 threaten the processor's property, the live
3 birds or the processor's employees.

4 The second part of the question,
5 what's a typical term of the contract. I
6 can only speak for our company. And I'm
7 sure it varies throughout the industry.

8 But the terms of our contracts at
9 Peco are from flock-to-flock up to 15 years
10 and anywhere in between.

11 Our new house contracts are 15
12 years.

13 Contracts on older farms, depend
14 on the age and condition of houses, and,
15 also, some circumstances surrounding those
16 houses.

17 Some lending agencies that
18 finance some of our farms dictate the lien
19 or the terms of the contract and we abide
20 by those.

21 We currently grow in houses that
22 age from brand new to 40 years old.

23 The average age of our 1570

1 houses is 15 years is old.

2 Our company has been in business
3 for 73 years. And in the last 10 years
4 we've had 749 contracts. We've terminated
5 3% of those contracts for just cause.

6 The last -- the third question,
7 when there's contrast in the market, do
8 processors cut back on the frequency of
9 flocks and contracts are then cut back on
10 numbers of chicks.

11 Again, I can only speak for our
12 company. During the recent severe market
13 contractions, and there have been a few in
14 the last several years, Peco Foods has
15 attempted to manage through these
16 contractions by simply cutting back the
17 frequency of flocks grown. That's the only
18 thing we have done.

19 In an effort to mitigate the
20 impact of these contractions on our
21 growers, we've offered an increased out
22 time pay to help the growers' cash flow.

23 As a result of this action, our

1 company, rather than the grower, has borne
2 the principle brunt of these market
3 contractions.

4 Thank you.

5 MR. FAMILANT: Mike Weaver.

6 MR. WEAVER: There's several
7 different aspect of contracts that directly
8 affect growers. And I'm going to try to
9 address those here.

10 They're talking about these
11 non-compensation aspects of the contract.
12 Probably one of the most significant for us
13 as growers is the term of the contract. I
14 believe Mr. Bishop here says that theirs
15 flock-to-flock.

16 And, as a general rule, from what
17 I've seen, and I've seen many contracts
18 from many different companies around the
19 country, flock-to-flock is about a
20 standard.

21 You may see on your contract,
22 I've had one myself in the past, where it
23 says the term of the contract is five years

1 or ten years or 15, but in reality, that --
2 that contract is flock-to-flock.

3 And because it also goes on to
4 give the company the authority to terminate
5 that contract with or without cause. So it
6 may vary a little bit on that, too.

7 Some of them say, however, some
8 of them say with cause, some of them say
9 with or without cause.

10 One of the biggest problems I
11 think with the poultry contracts instrument
12 is no input from the growers. We have no
13 say so whatsoever in that contract.

14 As -- as all you growers know
15 here, and I -- Mr. Bishop's company might
16 be different, I don't know, but I hope it
17 is, but they are more or less take it or
18 leave it contracts.

19 When they bring it to you, you
20 sign it, you grow chickens, you don't, you
21 don't grow chickens.

22 There's termination requirements
23 or stipulations in those contracts. As I

1 just mentioned, capital investment
2 requirements, which never use to be listed,
3 but now, thankfully, under the 2008 Farm
4 Aid Bill that has to be included in the
5 contract. All it does, though, is tell you
6 that you may be required to make capital
7 investments. It doesn't say how much it's
8 going to cost you, how long it's going to
9 take you to pay it back or how much money
10 in addition they're going to give you to
11 pay you for making those capital
12 improvements.

13 One of the -- one of the real
14 problems with the contracts is, and I
15 expect most of the growers that are here
16 have experienced this is, that it's only a
17 contract until they bring you the next one,
18 you know.

19 It might say 15 years, but two
20 months from now they might decide to change
21 that contract. So they bring you a new one
22 and you sign it or you don't grow chicks,
23 you know. To me, that's not a contract.

1 If get one for 10 years, it should been for
2 10 years.

3 We also have no control over the
4 age they take the bird for processing, it's
5 up to the company. It's their -- in my
6 case -- in my case, I grow a four pound
7 bird. And recently they've been taking our
8 birds as early as 34 days. We're lucky to
9 get a three and a half pound chicken in
10 that amount of time.

11 And that loss of that weight, we
12 don't get paid for it, is our loss. They
13 don't get -- that doesn't made up to us in
14 anyway whatsoever.

15 We have -- we have no say so in
16 the number of breeder chickens. It says
17 specifically in the contract that that --
18 the number of birds they place on your farm
19 it's up to them. And you have nothing to
20 say about it.

21 So if they bring you 10,000
22 chickens or they bring you 2,000 chickens,
23 it's completely up to the company.

1 The transferability in that
2 contract, we have no input into.

3 If I decide to sell my farm and I
4 have somebody wants to buy my farms, I
5 can't transfer that contract to them
6 without the approval of the company. In
7 reality, that company has a new -- or
8 negotiates a new contract with that person.

9 And that's -- the requirement for
10 upgrades has become a real problem as far
11 as any growers that want to try to sell
12 their farm because somehow the company has
13 figured out that if they want to force
14 somebody to make upgrades on their farm
15 that they're trying to sell, they'll --
16 they either make those upgrades themselves
17 at their expense so that they can sell
18 their farm or the person that buys the
19 farms is forced to make those upgrades.
20 And I think that's absolutely wrong.

21 In my particular case under the
22 2008 Farm Bill we were given the right to
23 opt out of binding arbitration, which is a

1 wonderful thing, and I hope nobody in here
2 agrees to binding arbitration, you
3 shouldn't. If you do, you need to talk to
4 your attorney about that.

5 But we -- my company restricted
6 me, even though I can opt out of binding
7 arbitration, from a jury trial. It says my
8 only right is through a trial in front of a
9 judge.

10 So I got out of binding
11 arbitration, but now I can't even go before
12 a judge. And I thought this was America.
13 I thought we are able -- we were all
14 entitled to a jury -- a trial by jury, but
15 under my contract, I'm not.

16 MR. FAMILANT: Any other quick --
17 quick comments before we move on?

18 MR. TAYLOR: I'd like to
19 emphasize one point Mike made.

20 In recent years contracts are
21 going for longer and longer periods. There
22 are 3-year contracts and seven and some
23 ten.

1 15-year contract mentioned, I
2 have yet to see a multi year contract that
3 required the integrator to provide more
4 than one flock of chicks. It could be for
5 a thousand years, it doesn't matter.
6 You're guaranteed one flock of chicks.

7 And then after that the
8 integrator can change the contract or
9 whatever. That's what economists called
10 hold it up can occur. I have not seen
11 Peco's contract, but all of the others I've
12 seen.

13 MR. FAMILANT: We should turn now
14 to the key compensation aspect of the
15 contracts that determine the ranking
16 system.

17 First, let's get a brief
18 description of a typical payment scheme.

19 When did this compensation aspect
20 of the contracts emerge?

21 When -- when did we get terms?

22 And why do you think these
23 emerged?

1 And this last question is
2 particularly of interest to me as an
3 economist, why do we observe it so
4 universally in broilers, but not so in
5 raising other animals?

6 And I'm going to turn John
7 Ingrum.

8 MR. INGRUM: And, first of all, I
9 want to thank everybody for being here
10 today. I've grown poultry for ten years.

11 And the problem I see in the
12 ranking system is it's not fair. And
13 there's no way it could be fair, you know.

14 A lot of the growers will tell
15 you that the companies tell you that the
16 ranking system is a fair way of judging the
17 grower on their performance, but there's no
18 way it could be -- it could be fair because
19 we don't have any control over the birds
20 they bring us.

21 Sometime's I've -- I've dumped
22 chickens that -- you know, there's a
23 hundred chickens in a tray. And I've

1 dumped the chickens where's there 35 to 40
2 of those chickens dead in that tray.

3 So -- and I -- and, also, one of
4 the growers said earlier I have been out of
5 feed for two or three days with six-week
6 old chicklets.

7 And it's based on the breeder
8 chickens you get or whether they're male or
9 female.

10 And it also is based on how long
11 you out of chickens. If you're out of
12 chickens 14 days, and you're out of
13 chickens 21 days, that has an effect on how
14 your chickens are going to be perform based
15 on your litter quality.

16 So I don't -- I don't see how the
17 ranking system could ever be a fair system,
18 you know.

19 The poultry industry has really
20 been strange to me because I have a son
21 that's a computer expert. And we use to
22 try to figure out how to come up with our
23 feed conversions on -- based on what our

1 chickens should weigh.

2 This kid is a master on a
3 computer, never could figure out the
4 chicken business, never could figure out
5 the feed. And, so, I knew then that it was
6 something wrong.

7 But, as far as a ranking system,
8 there's -- there's no way it could be fair.

9 And to base our performance if --
10 if the company -- I was out of feed one
11 time as long as three days when my chickens
12 started to eat on each other, but when I
13 sold those chickens they still based my
14 performance on what I done, but I had no
15 control over the feed that they brought me.
16 So there's no way that the ranking system
17 could ever be fair. That's in my opinion.

18 MR. FAMILANT: Professor Taylor,
19 any follow-up on this?

20 MR. TAYLOR: Well, you question
21 about why is that in the poultry industry
22 and not others, is simply because the
23 integrators require it. They set it up

1 that way.

2 There's the myth that this system
3 takes grower -- eliminates grower's risk.
4 It doesn't. It actually -- the common pay
5 system -- if you have a high cost, you get
6 a low unit price, or if you have a low
7 cost, you get a high unit price. And it
8 doubly penalizes or doubly rewards growers
9 for good or bad flocks.

10 A very troubling aspect is a
11 grower cannot verify any of the numbers
12 used to calculate pay.

13 The second thing is beef quality
14 varies, chick quality varies, economists
15 call this pay system a tournament, to me
16 it's a lottery.

17 And the problem is, it can be a
18 rigged lottery, I'm not saying it is a
19 rigged lottery, but it can be and a grower
20 has no way of figuring out if they were
21 singled out for good chicks or if they had
22 a sweetheart deal and were singled out for
23 really good feed and really good chicks.

1 So it's a very troubling aspect
2 that a grower cannot verify the numbers
3 used to compute their pay.

4 MR. FAMILANT: I've seen some
5 discussion that we're -- we're beginning to
6 see tournaments in some other animals.

7 Have -- have -- have -- are you
8 familiar with any evidence of that?

9 MR. TAYLOR: Not like the poultry
10 system.

11 MR. WEAVER: I have a comment on
12 this.

13 MR. FAMILANT: Sure.

14 MR. WEAVER: There's -- stop and
15 think about this my fellow growers.

16 Under the ranking system if
17 you're provided with poor -- poor quality
18 chicks and poor quality feed, which is an
19 input from the company that we have no
20 control over, you're going to have poor
21 production.

22 This means you're going to have
23 less pounds than you should have if you got

1 inputs from that company. So you're going
2 to lose money on the weight that you don't
3 have.

4 Plus, under the ranking system,
5 you're going to have points deducted from
6 your pay because you -- you produced
7 poorly.

8 So under the ranking system we
9 get hit twice, we get subtracted on twice.
10 And there's no way that that is fair.

11 Another way that it's not fair is
12 the fact that it robs Peter to pay Paul.
13 Why should it be fair for -- for the
14 companies to be allowed take money away
15 from you to give it to me because I did
16 better than you did. There's no way that
17 could be fair and it shouldn't be legal.

18 We've -- we've got to have a
19 better system of paying our growers here in
20 the United States.

21 MR. FAMILANT: Mr. Taylor, what's
22 the problem?

23 MR. TAYLOR: Let me mention one

1 thing I've observed about the tournament
2 pay system. There are a lot of subtlies
3 dealing with whether an average is used or
4 whether a median is used or whether a
5 weighted average is used. And the
6 integrators exclude some flocks, sometimes
7 high, sometimes low. They completely
8 determine what is excluded. They have mini
9 and max pay.

10 The point I'm getting up is, in
11 contracts, most of them have a stated based
12 a contract pay. Let's say it's five cents.
13 And there are bonuses for those that really
14 have good flocks about that and penalties
15 for those below.

16 For the base pay of five cents,
17 if you take a weighted average of all of
18 those for flocks, it usually comes out to
19 be less than what a contract says. And to
20 me, that's deceptive and unfair.

21 MR. FAMILANT: Benny Bishop.

22 MR. BISHOP: I just wanted to
23 make the comment, there's been some

1 comments talked about poor chick quality,
2 poor feed quality.

3 And, first of all, you know, from
4 the company's standpoint, it's not in the
5 best interest of any company in this
6 business, and, again, I'm speaking for our
7 company, but for the industry as a whole,
8 to send out poor quality chicks and bad
9 feed to any grower. I'll say that to
10 anybody in this room or in this industry.

11 And if you look at what's
12 happened in the industry over the last ten
13 years, we've improved livability by over
14 1%. Back in 1999 and 2000 the average
15 livability was only 95%.

16 Today 2009, 2010, we've raised
17 that livability to 96% plus.

18 USDA records show that whole
19 birds condemnns are over 1%. Ten years ago
20 1.2, 1.3. Today, the last 12 months, the
21 average whole bird condemned is less than
22 one-third of one percent.

23 And the industry does not achieve

1 this with poor quality chicks and poor
2 birds coming off the farm.

3 MR. WEAVER: I'd like to make
4 another comment about that if I could.

5 MR. FAMILANT: Go ahead.

6 MR. WEAVER: The reason industry
7 is allowed -- is able to achieve that is
8 because of good growers.

9 MR. BISHOP: But there's some
10 good inputs, they're not all poor.

11 MR. DICKS: If I could just make
12 a couple of comments.

13 MR. FAMILANT: Go ahead.

14 MR. DICKS: You know, you asked
15 about the -- you know, I grew up in the
16 tomato industry. And I can tell you that
17 they have the same kind of a tournament
18 system basically in the tomato industry in
19 terms of providing those tomatoes to the --
20 to the processor. And that's what we did.

21 And you're -- you're paid based
22 on how much sun scald there is; how much
23 rot there is; how much different than -- if

1 it's less than -- if it's more than 12%,
2 they turn the whole tub back around, 40
3 something tons of tomatoes, and back to the
4 fields and you get to dump them. So it's
5 the same kind of deal, but a little
6 harsher.

7 In the beef industry I'm pretty
8 glad that we've gone to the grid system. I
9 get paid, not only the quality of my
10 carcass, but the yield of my carcass in
11 terms of also the rib eye, the back fat,
12 all kinds of characteristics on that. So,
13 again, there is -- there is something to
14 the merit system.

15 And I want to follow-up on what
16 Benny says. You know, one of the things
17 for me, as an economist, is try to figure
18 out why things are the way they are.

19 And just so you understand, you
20 know, I don't want to put a lot into all
21 the nuisances of these -- of these -- of
22 this tournament system. And I know there's
23 lot of ways it could be improved probably

1 and they're probably some things wrong with
2 it, but -- but let's look at why it's
3 happening.

4 First of all, the -- the
5 integrators don't make a large profit.
6 That's a lot -- you know, a lot of -- but
7 here's what I want to tell you. And I know
8 you're all rolling your eyes about that.

9 If you take the cash sales and
10 divided by the cash expenses or, sorry, you
11 take the cash sales and minus the cash
12 expenses and divide by the cash sales,
13 that's profit, okay. That's not return on
14 assets.

15 These -- these integrators are
16 making 1 to 2% profit. The thing that
17 they're -- the way they're making returns
18 their return on assets is by lots of
19 quantity.

20 What they have to do is run those
21 plants at a hundred percent capacity. They
22 cannot afford to produce chicks and not
23 have those chicks come back live and as big

1 as they can.

2 And, so, what they're doing is
3 they're reimbursing those growers to try to
4 induce the biggest birds they can get in
5 the most efficient production. Now, that
6 just makes sense. So that's what -- that's
7 what that whole tournament process is.

8 Now, I want to -- the reason I'm
9 saying this is because if you have a better
10 way, right, of -- of -- of -- of coming up
11 with a formula -- and you're in the
12 business -- I always tell farmers that,
13 you're in the business, you're on the
14 ground, if you have a better way of coming
15 up -- a way of paying yourself for being
16 efficient, bring it forward, bring it
17 forward, let's talk about it. Maybe --
18 maybe that's what the industry go to.

19 MR. WEAVER: I have a suggestion
20 for that. If you don't mind, I'd like take
21 a couple a minutes here.

22 MR. FAMILANT: We have talked --
23 we've got to move along. So just try to do

1 it real quickly in 30 seconds.

2 MR. WEAVER: Well, okay, plain
3 and simple. What we need is a base pay, a
4 true base pay for growers that can't be
5 subtracted. Once we get that, we'll be in
6 a position to where we know what our pay is
7 going to be at least. And the companies
8 won't be at their will to take away from us
9 when they want to.

10 If we -- we have a set amount
11 that we know we're going to receive, we can
12 budget ourselves and operate on that.

13 And it has to be an amount that
14 allows us to pay our bills and make it a
15 reasonable amount of return.

16 MR. FAMILANT: Okay. As -- as I
17 suggested earlier, we also want to address
18 another aspect of the contract, situations
19 in which integrators require upgrades and
20 additional investments by growers in order
21 to perform their contracts.

22 How often does this occur?

23 What do the processors cite as

1 the reason for these demands they make?

2 What is the evidence on whether
3 these upgrades lead to cost effective
4 improvements in the quantity and quality of
5 poultry grown to maturity?

6 And what is the effect on the
7 growers?

8 So we'll turn to Mr. Weaver
9 first.

10 MR. WEAVER: Just to go down the
11 list there.

12 The first one is, how often does
13 this occur, that varies tremendously.
14 You-all know that as well as I do.

15 But, as a general rule, major
16 upgrades are pretty much on the five to
17 10-year cycle. It depends on how old your
18 houses are and the whim of the integrators
19 essentially is what -- what it comes to.

20 Integrators -- I -- I -- it says
21 processors. And I'm assuming you mean all
22 integrators?

23 MR. FAMILANT: Yes.

MR. WEAVER: The reasons for these demands as typically can improve production, but one of the problems with it is they never delineate who the -- who the improved production is going to be, is it going to be for them or is it going to be for us as growers, but we're the ones who have to bear the cost for it. And that's -- that's the true problem that I see.

The integrators don't bear any of that cost typically. Now, sometimes they do cost share a little bit.

One good example I can give you is one of our growers was forced to do \$600,000 in upgrades in his poultry operation and they cost shared with him. They gave him \$78,000. So that was a really big cost share, wasn't it?

AUDIENCE: Good return on investment.

MR. WEAVER: Yeah, that's right.

Another thing they don't do is
give us a cost projection on how this is

1 going to help us, you know.

2 I would -- I would -- if they
3 could -- if they could come to me and say
4 we want you to make this hundred thousand
5 dollar improvement. And here's a cost
6 projection as to how you're going to get
7 paid back for that, and here's how much
8 increase we're going to give you, and it
9 take you this amount time to make this
10 back, if they could show that to me in
11 black and white and make it reasonable, I'd
12 agree to do it, they wouldn't have to force
13 me.

14 And that -- it should tell
15 everybody who -- who even pays any
16 attention to that situation at all, and
17 you-all have heard it all day in here, if
18 they bring that contract to you with that
19 upgrade in it and tell you if don't sign
20 it, you're going to get -- you're not going
21 to get chickens, well, that's forcing
22 people to do it, isn't it?

23 But if they came to me and showed

1 me this cost projection and said we're
2 going to pay you this much more. And we
3 can prove to you that this improvement is
4 going to make you this much more money and
5 here's how long it will take you to get it
6 back, I'd gladly do it, but that never
7 happens.

8 What's the evidence on whether
9 these upgrades lead to cost effective
10 improvements and quantity and quality of
11 poultry growth, from what I've seen there's
12 very little evidence.

13 You-all know, as well I do, that
14 at times it's just the whim of the
15 integrator. We all have our opinions as to
16 why they force us to do them upgrades and
17 go into additional debt.

18 A lot times there is just
19 speculation on the part of the companies.

20 Like I said, if they brought --
21 brought me a spread sheet and showed me
22 this is how much it's going to cost you and
23 this is how long it's going to take you to

1 get your -- recoup your investment, it
2 would be a whole lot easier for me to make
3 a decision on whether I do that or not, but
4 the way it is, my decision is not too hard
5 anyway because they can come to me and say,
6 "If you don't do this, you're not going to
7 get chickens".

8 And that's -- like I said
9 earlier, this is the United States of
10 America, I don't think we should have to
11 suffer through that.

12 Where they're asking us to take
13 on additional debt for these improvements
14 that -- that many times is not funded. And
15 even when they do give us an increase for
16 it, it doesn't' cash flow, there's no way
17 to pay for itself.

18 More times than not these
19 improvements that they force us to do
20 benefits the integrator 100%, or at least a
21 whole lot more than it does the growers
22 that are being forced to make these
23 upgrades.

1 So I think we need to encourage
2 packers and stockyards to create some
3 regulations saying that the poultry
4 companies have upgrades they'd like to
5 make, if they think it's worth it to them
6 and their production is going to increase
7 that much, they should pay for it.

8 MR. FAMILANT: Cindy Johnson.

9 MS. JOHNSON: Thank you. I guess
10 you folks were starting to wonder whether I
11 was going to talk today or not.

12 I'm Cindy Johnson. And I'm kind
13 of the token lawyer, maybe the token woman
14 on this panel.

15 I'm humbled, I'm honored to be
16 here today. I want to, first of all, thank
17 whoever turned the air-conditioner off
18 because I thought I was going to have to
19 chatter through this.

20 And I also want to thank
21 especially my husband and my law partner
22 publicly, for having traveled down this
23 road representing chicken farmers for a

1 very long time with me at great risk to our
2 family. Thank you, Honey, I love you.

3 I was talking to our 24-year old
4 daughter back a few weeks ago because I was
5 trying to remember how long I've been doing
6 this.

7 And I said, "Elsa, how long have
8 I been representing these chicken growers?
9 It seems like forever".

10 She said, "Momma, I don't know".

11 She said, "All I know is when I
12 was little girl I used to think that
13 ConAgra must be a very bad man".

14 So it's been a long time, but
15 I'll get to upgrades.

16 Back in the '90's I was assisting
17 some other attorneys and some people that
18 were active in the industry trying to
19 organize poultry growers in the State of
20 Georgia. And I went to a lot of meetings
21 and did hearings around the state.

22 And one of the things that always
23 came up was upgrades and how the companies,

1 the integrators would keep growers in debt
2 with upgrades.

3 And that's the same song and
4 dance I hear today when -- from these
5 growers is we just can't get out of debt
6 for the upgrades.

7 From a legal perspective, as a
8 lawyer, it's always puzzled me that the
9 chicken processing companies call poultry
10 growers independent contractors and at the
11 same time control the manner and the method
12 of how they grow chickens.

13 The legal definition of an
14 independent contractor in the State of
15 Georgia is by definition, "Being able to
16 control the manner or method of how you
17 produce a result".

18 If the integrators want to
19 experiment with new technology, they should
20 do that at that their own expense, not at
21 the expense of the grower.

22 If -- if a grower is growing as
23 good a chicken as the man down the road

1 with the fancy new equipment at the same
2 cost to the company as the guy with the new
3 fancy new equipment, why should he have to
4 go and get into a lot more debt to put in
5 the fancy, new equipment when it's not
6 going to result in any additional money to
7 him. I don't understand.

8 And I think it's a symptom of the
9 problem we have with the lack of power in
10 growers who have invested more than half of
11 the capital in chickens in this country
12 collectively.

13 And there's a problem when you
14 have a group of people who have invested
15 more than half the capital in chickens and
16 have no power and no say and get as little
17 money as they do compared to the profits of
18 the processors.

19 MR. FAMILANT: John Ingram.

20 MR. INGRUM: It always puzzled me
21 the word upgrade, upgrade to what.

22 I have a -- my farm is down the
23 street from another guy. And his farm is

1 probably 35 years old and my farm is 15.
2 And this guy repeatedly beat me every batch
3 after batch after batch. Me and him was
4 good friends. I go down there to try find
5 out what he was doing differently for me,
6 but his houses was older than mine.

7 And my serviceman came out one
8 day and he said, "We're going to close so
9 and so down the road down".

10 And I said, "Why"?

11 He said, "Well, his houses is too
12 old".

13 I said, "Too old"?

14 This guy is kicking my butt month
15 after -- batch after batch. I mean, that
16 shouldn't have nothing to do with how old
17 his houses is. And they ended up putting
18 him out of business, closing him down.

19 Then I had another friend. He
20 had \$600,000 he owed on his farm. He had a
21 10 house farm. And he had to do upgrades.

22 When he got through upgrading on
23 that ten house farm he owed 1.2 million

1 dollars on a farm that was 15 years old.
2 He upgraded his self slap out of business.
3 He ended up -- he couldn't -- when he'd
4 make a chick it ended up costing him money
5 to grow chickens. He simply walked away.

6 You know who suffered, SBA,
7 because the SBA guaranteed his loan to get
8 that upgrade.

9 And then I had another friend --
10 there was four brothers in chicken
11 business. And they upgraded and upgraded
12 and upgraded to where these guys owe a
13 million dollars on a farm that's 15 to
14 20 years old.

15 When -- I mean, when do the
16 upgrades get to the point to where we don't
17 upgrade to the standard? It's -- we only
18 upgrade to the -- to the point of our
19 service tech because every service tech
20 that comes requires us to do different
21 things.

22 I had to put lights down the
23 center of my chicken house, half house. My

1 service tech said, "I want these lights
2 down to make it brighter, the chickens will
3 do better".

4 I said, "Okay".

5 Did it. It wasn't very much
6 expense, \$1500.

7 The next service -- this guy was
8 only there three or four months.

9 The next service tech came out
10 and says, "Why did you put them lights only
11 half way down that chicken house"?

12 I said, "Well, because the guy
13 told me before to do it".

14 He said, "Well, you know, I don't
15 like that, I want them all the way down the
16 chicken house".

17 And then I had another service
18 tech after that, it's about six months
19 after that, because, you know, they rotates
20 them around to keep you from jumping on
21 them.

22 And he came out and he -- I mean
23 -- I -- I work on poultry houses. So I had

1 my stuff in order.

2 So he comes out and he's looking
3 up in the air because they don't really
4 need -- they was trying to figure out a way
5 to extend my out time because they really
6 didn't need me to be in rotation at that
7 time.

8 So he was looking up in the air.

9 And I said, "Hey, the chickens
10 are down here, tell me what the problem
11 is".

12 He said, "Do you see that power
13 line up there"?

14 I said, "Yes".

15 He said, "I want that down".

16 I said, "Well, I'm sorry, Bud,
17 but that belongs to Mississippi Power. I
18 don't have no control over that".

19 And he says, "You're not getting
20 chickens until you take that line down
21 because our feed trucks might hit it".

22 Well, my feed bins are not even
23 close to the power.

1 So I said, "I can't do that".

2 So I go to Mississippi Power.

3 And they said, "Yeah, you can do it, we can
4 take them down, but it's at your expense".

5 \$6,000.

6 When do the upgrades stop?

7 Was than an upgrade or was that
8 just a want?

9 And that's what we have -- we
10 have. And, I mean, I see this grower after
11 grower after grower.

12 I've got a friend Charles --
13 Charlie -- Charles Moore. He's suppose to
14 have been here today. He cried on the
15 phone last night because he couldn't be
16 here.

17 He was a Wall Street investor.
18 When he bought his chicken farm he had over
19 \$300,000 in the bank, cash. He was getting
20 a retirement check and -- about \$2500 a
21 month with \$300,000 in the bank. He was
22 doing pretty good, wouldn't you think?

23 He messed around and got into

1 chickens.

2 MR. FAMILANT: Mr. Ingram, if you
3 could wrap up pretty quick.

4 MR. INGRUM: They -- they
5 upgraded him out to where he's broke.

6 Upgrades, so when do upgrades
7 stop.

8 MR. FAMILANT: Okay. I want to
9 turn to the topic that's come up today.
10 Let's talk about the options that growers
11 have to choose among alternative processors
12 with which -- with whom they might
13 contract.

14 What is the distance span from a
15 grower within which the grower can consider
16 a processor?

17 Do further distances impact the
18 market weight?

19 How typical is it for growers to
20 have two or three options within that
21 business plan?

22 And has -- and has such choice
23 become less common over the last decade?

1 Some obvious related questions if
2 we can get to them.

3 Does grower profit increase as
4 the number of available processors
5 increases?

6 And how often do growers switch
7 processors?

8 We've heard over here about
9 difficulties they face, but I'm -- I'm
10 interested in -- in -- in any data, that
11 anybody, any of the panelists have about
12 how often growers do switch.

13 And I'm going to turn Max Carnes.

14 MR. CARNES: I'm real fortunate
15 where we are, there are four or five
16 integrators that I could choose from. But
17 I can tell you this, the best time to
18 choose your integrator when you're building
19 that brand new house. It's a lot harder to
20 talk to somebody else once you've been
21 growing birds for a single integrator.

22 Distance that grower consider a
23 processor. Of course, you could look

1 around from your house and see if there are
2 any other -- different type integrators or
3 different types farms from you.

4 But, as a general rule, I would
5 think probably 75 miles is going to stretch
6 it pretty close to the -- how far they want
7 the feed trucks to come.

8 Do distances impact market
9 weight? Absolutely.

10 The longer that bird is sitting
11 in that haul truck the -- he's losing
12 weight the whole time. Of course, I know
13 the people that I work with, and I assume
14 everybody else, the first thing when that
15 truck gets through the processing plant
16 then he is weighed then. So your weight
17 loss returns to your integrator after it's
18 weighed then.

19 And do the -- does profit
20 increase with the number of integrators?

21 And I -- I really don't think it
22 does. I think we've already talked about
23 this earlier today that the contracts are

1 going to be very similar. It's hard to
2 sell a chicken a lot more expensive than --
3 than somebody has else.

4 So I -- I don't think there's a
5 whole lot of difference, it's just the type
6 person that you want to fit in with, the
7 type integrator that you fit with.

8 You -- you can be comfortable
9 with all of them, but you -- you need to
10 talk with the people who grow for those --
11 for that company and find out whether it's
12 a good fit or not.

13 And I -- there are very few
14 people who switch integrators from one to
15 the other. And I would think that the ones
16 that do switch are -- will be switching all
17 the time. You have some people who are
18 never satisfied, I think, but -- I feel
19 very fortunate where I am.

20 MR. FAMILANT: Mr. Taylor.

21 MR. TAYLOR: Okay. There are
22 five sub questions here in a couple of
23 minutes. So I'll try to hit them fast.

1 On the distance issue, it's
2 roughly 40 miles out is as far. And they
3 would prefer only 20 or 30 miles out.
4 Tyson had a web page up for quite a while
5 that said 40 miles.

6 The main reason, minimize feed
7 hauling costs. So the location of the feed
8 mill is the number one consideration.
9 Processing plant is number two. So they
10 want to minimize feed bin bird hauling
11 costs. And that concentrates the poultry
12 operations.

13 Does grower profit increase?
14 Well, the publicly available data indicates
15 that there's no profit.

16 Grower profit related to the
17 number of integrators. There's no public
18 data on grower pay, none.

19 Integrators have it, but they
20 share it with each other by complex and by
21 region.

22 That's not unavailable. So
23 there's no publicly available data with

1 which to answer that question.

2 My impression is, no, it doesn't
3 matter.

4 On the whole switching issue, no,
5 publicly available data on that either, but
6 switching is very, very low. My crude
7 subjective estimate is it would less than
8 1% per year.

9 The real problem with switching,
10 you build a house that's got an economic
11 life of, let's say, 30 years. You have two
12 integrators, A and B. If you start with
13 integrator A for a few years, you might
14 have 25-year life remaining. You look at
15 switching to B. Well, it's the same
16 contract and basically the same pay.

17 And if a grower for A switches to
18 B; then they make integrator A mad and
19 they're stuck with B forever.

20 So switching is very low,
21 tremendous barriers to switching, including
22 the mandated upgrades. Switching rarely
23 occurs without a grower, even with fairly

1 new house and equipment, being required to
2 make some kind of expensive upgrades.

3 MR. FAMILANT: Before we leave
4 this area of contracts, I -- we have one
5 question from the audience that seems to
6 fit in here.

7 The question is: Why don't we
8 observe at least one or two processors
9 owning -- owning growing facilities?

10 Why don't we see that
11 experimentation?

12 It just seems so systematic that
13 -- that we have the grower contract system.

14 Do any of you have any response
15 to that question?

16 MS. JOHNSON: I would like to
17 respond to the question because I've had
18 that come up in trying to organize farmers.

19 And I'll tell you, it's about as
20 easy to herd cats as it is to organize
21 growers.

22 And the reason for is, that it's
23 an atmosphere that is permeated by fear.

1 Growers don't like to be seen at grower
2 association meetings. They don't like the
3 companies to know they're talking to each
4 other. They fear retaliation and, hence,
5 they don't get together and try to
6 coordinate efforts.

7 MR. FAMILANT: No, no. But why --
8 why doesn't the processor just decide to
9 own farms and --

10 MS. JOHNSON: Oh, I see the
11 question, I misunderstood the question.

12 Because it's much cheaper to talk
13 a farmer in to doing it. It's a cost
14 decision, of course.

15 MR. WEAVER: It's because of the
16 investment.

17 MR. FAMILANT: You think that the
18 processor is not willing to make those --
19 that scale of investments in the growing
20 process?

21 MS. JOHNSON: If there was money
22 growing in chickens, the processors would
23 be growing chickens.

1 MR. FAMILANT: I think we should
2 now step back and pull together a lot of
3 previous discussion into a really important
4 question.

5 What do we know about the current
6 state of grower profitability?

7 What are the key factors that
8 would lead to a prediction of grower
9 profitability, which grower is going to be
10 profitable and which is not?

11 How sensitive is grower
12 profitability to a reduction in the number
13 of flocks he or she raises each year?

14 And what is happening to the
15 ability of growers to meet the terms of
16 their existing loans and secure the loans?

17 And I'll turn to Professor Dicks
18 first.

19 MR. DICKS: Well, I think I --
20 you know, first of all, I want to -- sorry,
21 is that working, you know.

22 I want to define profitability
23 again. You know, I think there's a

1 disconnect between what some people think
2 profitability is and what we, as economists
3 or finance people think it is.

4 And I think when -- when people
5 talk about profitability one thing that
6 you're thinking at is my return on -- to my
7 assets, my total return.

8 And when we say profitability,
9 what I'm talking about is when I take those
10 gross sales and divide by those -- or the
11 cash sales and divided by that -- or
12 subtract out those cash expenses and divide
13 by cash sales again. That's my
14 profitability, that's my profit margin.

15 And, again, I've already said
16 that for the growers that profit margin is
17 15 to 30%. And -- and -- and, so, if you
18 think about that, what am I telling you?

19 You know, if you'll take -- if
20 you'll take your revenue and consider that
21 a 45 to 50% of that revenue is going to go
22 to your operating expenses. All right.

23 AUDIENCE: (Inaudible).

1 MR. DICKS: Then -- then that --
2 yeah -- you know -- again, I can only go
3 off what data I have.

4 And here is the -- here are --
5 the other problem is, and I want to get
6 this right out front is, we have very
7 little data. Okay.

8 Most of the data we've collected
9 on -- on -- on -- on farm -- on poultry
10 growers comes from Schedule F's, Schedule
11 F's or Schedule K's. And that -- that data
12 is not poultry enterprise data, that's farm
13 data.

14 A lot of times there's categories
15 on there that have nothing to do with the
16 poultry enterprise. So we have to kind of
17 nitpick about it.

18 I've -- I've probably done, I
19 don't know how many, hundreds of poultry
20 farms in Eastern Oklahoma and Western
21 Kansas -- Western Arkansas.

22 And I'm going to let my comments
23 stand, but I would be willing to bet that

1 given the state of the industry, that that
2 will not hold true for the rest of the
3 United States.

4 And, again, I'm telling you what
5 we've looked at, that's what that
6 profitability measure is, is about 15 to
7 30%.

8 But the problem is, again, is
9 that sales to fixed assets ratio. How many
10 sales am I generating per dollar of my
11 fixed assets and that's incredibly low.

12 It's low by every standard that
13 was set for financial -- for the financial
14 standards. And that should be in the
15 neighborhood of 80 cents to 90 cents and
16 it's only 20 to 30 cents. So you have
17 tremendous -- you're over capitalized. And
18 that is true for all of agriculture, you
19 know.

20 I'll -- I'll tell my students
21 over and over again that buying land is a
22 poor decision if you're a crop farmer.

23 Buying poultry house is a poor

1 business if you're a -- if you're a poultry
2 grower, but it's a great -- it could be a
3 great investment.

4 So remember that what you're
5 doing is, again, you're -- you're using
6 profitability to pay for those assets in
7 the hopes at -- at some point those assets
8 are paid for and I'm going to get both the
9 gains from the profit margin and from that
10 sales of fixed asset ratio. So -- so
11 that's -- but that's -- that's the --
12 that's the reality of it.

13 So let me just wrap this up. You
14 know, what affects profitability? The two
15 -- probably the biggest -- the biggest
16 expense that you have is your -- is your
17 electrical expense, your -- your energy
18 expense, electric and propane.

19 MR. WEAVER: No, your mortgage.

20 MR. DICKS: Well, that's --
21 that's a fixed expense. So I'm talking
22 about just the variable expenses right now,
23 the case expenses.

And -- and you have no control over them, none of us do. And that -- that's stung you hard in the last -- in the last three years.

And, of course, the budgets that I'm telling you -- the data I'm talking about, I haven't updated it since 2006, 2007. Of course you know that those costs have gone skyrocket since that point in time.

I, as a producer, can tell you also that the fertilizer prices have gone through the roof. And that's -- it's killing us.

Those are the things that I think
I want to make -- make sure I get across.

Now, in terms of profit per flock. You know, the -- the profit that you make per flock is a function of the number of birds you get; correct?

But the profit you -- but then
the return on assets that you -- that you
make is both a function of the number of

1 birds that you get and the number of flocks
2 that you get per year.

3 So -- so the control of those two
4 numbers is going to affect your return on
5 assets, you know.

6 Why is it that you would -- would
7 you -- that you would get less birds or
8 less flocks?

9 The poultry industry, because
10 it's a vertically coordinated industry, is
11 trying to manage your supply.

12 Why is it trying to manage that
13 supply, because market conditions exist
14 that warrants doing something with supply
15 to maintain a price, a price that's
16 acceptable, a price that will give you some
17 kind of return and give the -- give the
18 integrator some kind of return.

19 And when the market dies, as it
20 did, because exports dropped from almost
21 20% down to 16% of supply, it dropped
22 fairly substantially, they have to do
23 something to make up that difference.

1 If they continue to put out the
2 number of birds, you're going to have a
3 huge drop in price in order to get rid of
4 them or you're going to dump them in a
5 ditch, one or the other.

6 So the only thing you can do is
7 cut back on -- cut back on output. And if
8 they do it uniformly, they have two
9 choices, they can give you less birds per
10 flock or they can give you less flocks per
11 year, both of which affect your profit
12 margin.

13 But they also, again, remember as
14 I told you, the integrators have to try to
15 get a hundred percent of capacity. They
16 have to try to manage those plants at full
17 steam in order to make a profit themselves.

18 And when they cut back birds,
19 they know they're going to lose money, they
20 have to know that. You're losing money,
21 they're losing money, the industry is
22 losing money.

23 You know, that's -- that's the

1 way the market works. I don't -- I mean, I
2 -- I don't know what else to say. But, you
3 know, I understand I'm -- I'm in the -- I'm
4 in the business myself of raising cattle
5 and the market has been pretty tough on us.

6 You know, I had a hundred and
7 sixty-six head in 2000. I'm down to 30 and
8 wish I had them down to zero. For the same
9 reason that -- that some -- some of you,
10 I'm sure, wish you were not in the poultry
11 industry because it's been pretty hard in
12 the last five years.

13 All right. Now, we're back being
14 in a turnaround and maybe I'd like to be
15 back to a hundred head after the prices
16 I've seen. But, unfortunately, it's going
17 to take me five years to get there because
18 I can't move them every 40 days.

19 So, anyway, I'll let -- did I do
20 okay?

21 MR. FAMILANT: John Ingrum, quick
22 comments.

23 MR. INGRUM: You know, I sit up

1 here and I listen to all of these things
2 that comes around, but the bottom line is
3 that our -- is our market on the chickens
4 is based on our weight and our feed and the
5 number of flocks we get versus the number
6 of chickens we have placed in the houses.

7 And the -- a lot of the
8 integrators are cutting the number of
9 chickens we get in the houses or increasing
10 our out time to a longer period of time in
11 which resulted in us missing chickens and
12 that has something to do -- a greater
13 affect on what we get paid, but most of our
14 payments are still based -- it's the same.

15 I bought my farm from a guy that
16 was in -- in the farm 30 years, in the
17 chicken business 30 years. And he told us
18 -- told me that we get paid the same thing
19 that they use to get paid when they were
20 growing chickens, but the difference is the
21 houses cost 200,000 now and 50,000 when he
22 built his, but we get paid the same.

23 And when you talk to a lot of

1 growers they'll say, "Well, we use to make
2 good money". And they did.

3 But when you -- when you pay
4 50,000 for a house and -- and then you pay
5 220,000 for a house, it's -- and you get
6 paid the same, I don't see how you make
7 money in chickens.

8 And when we go in to talk to that
9 banker or we talk to that integrator, they
10 don't tell us these things, they just shows
11 us the numbers and our head swells and we
12 want to get into the chicken business.

13 My son is 22 years old. He asked
14 me one day, he said, "Daddy, how could you
15 anybody talk you in to being in the chicken
16 business"?

17 And I said, "Son, they told me
18 how much money was I going to make".

19 He said, "Yeah, you might cash
20 flow that money, but the bottom line is
21 this".

22 I gave up a job making \$80,000 a
23 year to go into the chicken business to

1 make 30. There's something wrong with
2 that. And -- but it's based on the
3 numbers.

4 MR. FAMILANT: Professor Taylor.

5 MR. TAYLOR: Well, the only set
6 of information on actual profitability for
7 contract poultry producers done with
8 managerial accounting, rather than tax
9 accounting, is the Alabama Farm Business
10 Analysis Association, which I have nothing
11 to do with.

12 But trained farm management
13 experts sit down with participating farmers
14 and ranchers and growers who have paid
15 quite a bit to participate. And they go
16 through everything, every little receipt
17 and decide what percentage of the pair of
18 gloves you buy goes to cows and to poultry
19 and so forth. Those records go back to
20 1995.

21 10 of the 15 years, after taking
22 out basically minimum wage, there is a
23 negative return. They've lost money, on

1 average, 10 out of 15 years. And the loses
2 are much larger than the gains.

3 Another set of public
4 information, is a highly detailed survey
5 done by USDA. It's called an *ARMS Survey*.
6 And you can go, even online, and get a
7 summary for different production
8 specialties.

9 For the poultry specialty
10 averaged over 1996 through '08, 13 years,
11 the average rate of return on equity, they
12 take out a charge for unpaid family and
13 operator labor, after taking that out,
14 there is a negative return on equity.

15 Part of the deception that goes
16 on, and I've seen this in a written
17 representation made by an integrator to
18 growers, they show 20% return, you're
19 making 20% on your money.

20 They're not using the same
21 accounting concept that they're required to
22 use in their on financial statements.
23 They're including what little you get for

1 your labor there.

2 If you take minimum wage out for
3 labor, it's probably negative.

4 MR. FAMILANT: Let me -- let me
5 continue with this thought because this is
6 going to be a question for Professor
7 Taylor, too.

8 What information do growers have
9 when they enter into the business and sign
10 those very first contracts?

11 Are there significant
12 opportunities for the integrators to exert
13 what economists call close contract
14 opportunity and impose unanticipated
15 demands on the -- on the growers?

16 And with what frequency do we --
17 do we observe this?

18 Do we -- is there any data on the
19 -- on the frequency?

20 MR. TAYLOR: Frequency is
21 basically is every one of them.

22 The -- there is very little
23 public information on contract poultry

1 production. There's all kinds on wholesale
2 and retail chicken prices weekly, highly
3 detailed.

4 You can go to your USDA web sites
5 or listen to the news and you can get
6 morning and afternoon cattle and hog
7 prices. There is nothing on average
8 contract pay, not even annual.

9 You can go to USDA and get cost
10 of production budgets for corn and cotton
11 and hogs and cattle, nothing on poultry.

12 So potential growers are really
13 at the mercy of representations made to
14 them by integrators.

15 MR. FAMILANT: Mr. Gibson, your
16 comment?

17 MR. GIBSON: What information the
18 growers get when they first enter the
19 business is the signed contracts.

20 Of course, we have a list of
21 things that we furnish any potential
22 grower.

23 And that grower also has to make

1 a decision to sit down with his banker and
2 get all the information there, too.

3 So if they're misguided, I think
4 it would be from the lending institution.

5 First of all, whenever we get a
6 new grower, a potential new grower, we give
7 them a packet that offers a copy of our
8 contract. We don't hide anything. They're
9 eligible to take a look at it, read it.

10 Copy of the building
11 specifications.

12 List of contractors and builders
13 that service the area.

14 List of equipment suppliers.

15 We furnish a list of banks and
16 lending agencies that finance poultry
17 loans.

18 We show and discuss any company
19 qualification and calculations.

20 We tell them to sit down with the
21 bank and let them go through this totally
22 again and decide if they want to get in the
23 chicken business and if that bank wants to

1 loan them the money.

2 We file a list of other items
3 that are needed such as the amount of
4 property, permits, utilities, dead bird
5 disposal provisions, litter storage, dirt
6 work, road construction.

7 Even have to remind them about
8 the equipment they'll need like tractors to
9 operate their farm.

10 We want to them know everything
11 there is before they get into the business.

12 A copy of our live production
13 program is given to them.

14 We encourage every potential
15 grower to go and visit with other growers,
16 go and talk to them, see what they think
17 about the business.

18 They can contact and discuss with
19 whomever you want to, your family, your
20 friends, your attorney.

21 We'll offer to take you to visit
22 the poultry operation.

23 We offer to take you on tours of

1 our plants, our hatcheries and our -- our
2 feed mills.

3 It's all about close contractual
4 opportunities and unanticipated demands.

5 Again, I can only speak for our
6 company.

7 And we look at the relationships
8 of our growers as being long-term. If it's
9 not mutually -- something is wrong if it's
10 not mutually beneficial to both of us.

11 It's not in the best interest of
12 our company or any other company, I don't
13 think, to impose economic hardships on a
14 grower.

15 And as long as we keep continuing
16 to put growers out of business, the bank is
17 not going to loan money to get new growers
18 to replace them.

19 A productive grower network is
20 important for us. It's essential for us to
21 compete in the marketplace. We have to
22 have good growers.

23 Our management feels strongly

1 about upgrades for the ones that are
2 lowering costs to improve efficiencies in
3 live operations. We'll offer incentives to
4 offset those costs.

5 It has to be mutually beneficial
6 to both us and the grower or we're not
7 interest in looking at it.

8 These changes in technology
9 improvement -- improve management
10 practices, not only in this industry, but
11 as in any other business.

12 And to what frequency, I think
13 it's varying.

14 MR. FAMILANT: I think this leads
15 to a natural follow-up question that at
16 least three of you have submitted in some
17 form.

18 In most areas there are -- there
19 still are numbers of -- of people who
20 wanted to grow broilers and wanted to --
21 they want to secure loans.

22 How are we suppose to determine
23 this fact that there are -- there are these

1 people lined up to get in the business?

2 If growers don't expect to see a
3 return on their investment, why are they
4 getting into the industry?

5 And, again, as many people have
6 asked from the audience, why do banks lend
7 to these people?

8 Let's -- let's turn to Mr.
9 Weaver.

10 MR. WEAVER: Is that my question?

11 MR. FAMILANT: Yes.

12 MR. WEAVER: I have some other
13 comments I'd like to make as far as the
14 growers income and such that we were
15 addressing earlier and I didn't get to
16 address.

17 But current growers are
18 increasingly discouraging their families,
19 their sons and daughters, their nieces and
20 nephews to get into the poultry business
21 because they, plain and simple, will not
22 make money doing it.

23 I'll use myself for example. And

1 I think the statement has been made here
2 that the biggest cost you have is your
3 fuel. And outside of your mortgage, that's
4 true.

5 But my mortgage on my poultry
6 operation is \$84,000 a year. Last year I
7 grossed a hundred and nine thousand
8 dollars. And I was the number one grower
9 three times.

10 So what does that tell you folks?

11 Part of that was -- one -- one of
12 the previous questions was that the
13 companies cut back on the number of flocks
14 or placing the number chickens you get.

15 Part of that drop in my income
16 was that I lost the equivalent of a whole
17 flock of chickens because of the cutbacks.

18 We're -- a lot of our growers in
19 our area are so frustrated, and they've
20 lost so much money, that they intend to
21 close down their operation in the very near
22 future. Luckily for them, they're most of
23 the people who have their operations paid

1 for and they can do it without losing their
2 home and their farm.

3 But most of us are in debt to one
4 degree or another. And if we do that,
5 we'll probably going to lose our home and
6 our farm.

7 Somebody this morning made the
8 comment that that farm had been in their
9 family for eight generations. Those are
10 the kinds of situations we're placed in.

11 And the question being what --
12 you know, why would people want to get into
13 these contracts like this?

14 As a general rule, the majority
15 of growers I've talked to that have done
16 that, when the companies that -- no
17 disrespect to Mr. Bishop, I don't know how
18 he runs his business, I hope everything he
19 says is true, and I wish it -- I wish it
20 was that way industry wide.

21 But, as a general rule, the
22 figures that growers get from the companies
23 trying to talk them into building houses

1 are misrepresented.

2 Now -- and I've seen them do it.
3 They'll say, "Well, now, here's -- here's
4 the average that growers make, but if you
5 do real good, you can make as much money as
6 you can". And that's another 30, \$40,000 a
7 year.

8 Well, unfortunately I have never
9 met a grower that is on the top every time.
10 If there's one out there, I wish you raise
11 your hand, I'd like to shake your hand, and
12 I'd like you to tell me how you do it
13 because I've never met anybody else who
14 could do it. I don't think this happens.

15 And listened to Doctor Taylor
16 here, again, and it show that it doesn't
17 happen.

18 MR. FAMILANT: If we could move
19 along because we've got -- I really want to
20 get in at least one more question and let
21 -- and let Professor Dicks respond to this.

22 And we're coming up on our --
23 well, we're about out of time.

1 MR. WEAVER: This last question
2 here says, if they don't want these
3 particular contract terms, why do they sign
4 them?

5 MR. FAMILANT: Yeah.

6 MR. WEAVER: I think we've
7 already answered that. They get an
8 ultimatum, you sign here or you don't get
9 chickens.

10 MR. FAMILANT: Professor Dicks
11 with some -- some quick thoughts.

12 MR. DICKS: Well, just a couple
13 of things.

14 You know, Mr. Weaver, if I'll ask
15 you, you know, you said you had an
16 eighty-five -- \$84,000 dollar mortgage
17 payment.

18 How much of that was interest?

19 MR. WEAVER: I don't know. Let
20 me think a second here. It's like \$25,000
21 was interest.

22 MR. DICKS: So that's the only
23 expense. The other part is principle.

1 That doesn't -- you know -- that's --
2 that's --

3 MR. WEAVER: It's not principle,
4 but --

5 MR. DICKS: You know -- you know,
6 but look here, folks, this is -- you know,
7 one of the problems in America today, and
8 you know this is true for all of America,
9 is we have a real problem with financial
10 literacy in this country.

11 And that's why -- that's why
12 we're having the problems we have with all
13 the mortgages crisis and that's why we're
14 having a problem having this conversation.

15 You know, if we're going to tap
16 -- if we're going to talk about finance, we
17 ought to talk about using the same terms.
18 You have to look at the same things; right?

19 If you were making a principle
20 payment that's no different -- you've made
21 the decision to invest in a poultry house
22 rather than invest in the stock market,
23 that's an investment. That's not -- you

1 can't make that -- you can't use that as a
2 deduction. I understand that that means
3 you have less money, but nonetheless, but
4 that principle payment is not -- not
5 considered in finance as an expense. So
6 you can't use that.

7 And that's one of the things I
8 want to come back to --

9 AUDIENCE: Well, look at --

10 MR. DICKS: -- excuse me, let me
11 finish.

12 MR. FAMILANT: Let him finish,
13 please, please.

14 AUDIENCE: -- is down by 76%, it
15 is an expense.

16 MR. FAMILANT: Let him make his
17 point.

18 MR. DICKS: Well, let me just say
19 this, I'll just make it real easy on you.

20 You know, I -- I -- yeah --
21 again, I -- I can tell you -- I can't -- in
22 -- in my twenty -- 21 years plus at
23 Oklahoma State University, I don't how many

1 farmers, both my students and I, have
2 analyzed doing business plans for.

3 But I will tell you this, across
4 the country I've -- you know, I've farmed
5 in four different states, I've been all
6 over the United States and all over the
7 world, and I can tell you that of all the
8 farms in the United States that I've looked
9 at, I bet you less than 2% have the
10 financial records necessary to run a
11 business.

12 And I'm not dissing anybody,
13 that's a real problem, that's one that I'm
14 -- I'm trying to fix.

15 You know, I'll just ask y'all out
16 there, how many people have an income
17 statement on hand, a balance sheet, a cash
18 flow statement, enterprise budgets and the
19 financial ratios necessary to look at your
20 operations?

21 And I guarantee you this, if your
22 bank doesn't have it, your bank shouldn't
23 have lent you any money.

1 And I've looked at a lot of the
2 Farm Service Agency guaranteed loans and
3 they don't have them.

4 And, in fact, just to let you
5 know our state office, our state office,
6 our state FSA office this week has sent out
7 a notice that provided guidelines to the
8 banks on what was necessary in order to
9 give loans for concentrated feeding
10 operations.

11 So it -- it -- it indicates there
12 is a problem out there. And one of the
13 problems that -- that this question is
14 getting at is why are people -- why are
15 people getting into the poultry industry
16 when you-all have these problems.

17 Well, number one, is they're not
18 being told -- if you're not talking to and
19 they're getting -- they're getting a form
20 that's only giving them that gross profit I
21 was talking about. So it looks pretty
22 good.

23 And they go down to the bank.

1 And what does the bank give them a loan on,
2 their collateral, plus it's a guaranteed
3 loan.

4 All of those things set in motion
5 something that we're seeing here today is a
6 lot -- a lot of problems in the industry.

7 If you're not -- if you're taking
8 out a loan, right, and you can't cash flow
9 with 60% of your variable expenses, you
10 shouldn't have taken out that loan in the
11 first place because if you took it out with
12 the understanding that you were going to
13 only have 45% of that be variable expenses,
14 and the propane expense went up or the feed
15 expense or something else happened, you're
16 going to be underwater and you're not going
17 to be able to pay your note.

18 And if I'm a banker, I don't want
19 to do that. I don't want to give you that
20 because I don't have want to own a poultry
21 -- I don't want to own a poultry farm.

22 MR. WEAVER: Mr. Dicks, here's
23 something right here I'd like to offer for

1 an example. And anybody that wants to is
2 welcome to come and look at this.

3 This is a grower settlement from
4 1985. In 1985 these growers could make as
5 much as 4.85 cents a pound for their
6 chickens.

7 Today the company I grow for our
8 base pay is 5.05, that's two-tenths of a
9 cent more than it was 25 years ago in 1985.
10 That's the problem, that's part of the
11 problem.

12 Another part is this right here.
13 This -- this is a receipt for Kentucky
14 Fried Chicken for a 12-piece bucket of
15 chicken that was purchased last week. This
16 -- this 12-piece bucket of chicken costs
17 \$26.99. And out of that -- out of that
18 \$26.99, the grower that raised the chicken
19 got 30 cents.

20 MR. FAMILANT: All right.
21 Let's --

22 MR. WEAVER: The -- the state and
23 -- and the city that sold this, where this

1 was purchased, got \$2.16 and they didn't do
2 a thing for it.

3 MR. FAMILANT: All right.
4 Everybody -- everybody -- we've got to stop
5 very, very shortly and I want to hear this
6 last question in because it's very
7 important. This will be our last question.

8 We've recently had court rulings
9 that producers must prove competitive harm
10 before succeeding in a case alleging an
11 unfair practice under the Packers and
12 Stockyards Act.

13 What are examples of how alleged
14 unfair practices might and might not be
15 related to competitive harm?

16 In view of these decisions, what
17 will growers or USDA have to do differently
18 in order to challenge a possibly unfair
19 practice?

20 And what could a grower, an
21 ordinary grower be able to put together?

22 What kind of economic evidence
23 could that grower put together to support

1 such a complaint of an unfair practice?

2 And I'm going to turn to Ms.
3 Johnson for that.

4 MS. JOHNSON: Thank you. I
5 appreciate it.

6 As I said, I've been representing
7 growers for a long time, about 20 years.
8 And back in the 90's when we were trying to
9 get these growers in Georgia organized I
10 use to go to meetings and I would be the
11 featured speaker most of the time.

12 And they would get up and they
13 would introduce me and they'd say, "Ms.
14 Johnson here has one every case she's had
15 for every poultry farmer she's ever
16 represented".

17 And that wasn't quite true. I'd
18 lost one, it was on a technicality.

19 But I would get up and I would
20 wave the flag and talk about how there's
21 this wonderful sword that growers have
22 available to them. And it's called the
23 Packers and Stockyards Act.

1 And it prohibits any unfair or
2 unjustly discriminatory or deceptive
3 practice.

4 And when they terminate your
5 contract because you're at this meeting we
6 can go forward and we can file this claim
7 under the Packers and Stockyards Act and we
8 can get your chickens back. And that gave
9 a lot of comfort to the farmers who stuck
10 their necks out in Georgia back in the
11 '90's.

12 And it grieves me to have to tell
13 you folks who are sitting here today that
14 that sword that we had available to us to
15 use for all those years has turned into
16 more like a feather than a sword.

17 I don't see a single grower here
18 from Georgia. And I know why that is
19 because the growers in Georgia who took on
20 this battle have been pretty much cut down
21 and stomped on.

22 The fellow who was here earlier,
23 the gentleman from the Council, Poultry

1 Growers, what's that called again?

2 National Broilers Growers, or
3 whatever, Council -- Chicken Growers. I
4 can't get the name right.

5 He made a good point. The
6 Council has spent a lot of money on lawyers
7 to convince our courts that growers ought
8 not have any federal rights. And that is
9 -- that's a snowball. It's keeps on
10 rolling down the hill and gathering up more
11 and more snow and keeps rolling over
12 farmers.

13 The most recent decision is the
14 Terry Case out of the 6th Circuit. And
15 that case isn't over yet. And I'm not real
16 comfortable talking about a case that's not
17 over, and, especially, when the lawyers for
18 Tyson are sitting up there on second row.

19 But suffice it to say, there's
20 something wrong in America when a grower
21 like Mr. Terry over here in the red shirt
22 complains to the -- to GIPSA, to the USDA,
23 the federal agency that's charged with the

1 responsibility of making sure that growers
2 receive adequate pay for their efforts
3 complains because Tyson is stealing from
4 him, gets cut off for his efforts and has
5 no remedy. There's something wrong with
6 the laws in America if he has no redress.

7 MR. FAMILANT: Thank you. Do any
8 other panelists want to -- any other
9 panelist want to say anything before we
10 close on this particular comment?

11 MR. CARNES: We do have one
12 grower from Georgia. Thank you.

13 MS. JOHNSON: And if I can make
14 an observation.

15 And I have a lot of respect for
16 Mr. Carnes. We talked before the panel
17 today. And he seems to be a very capable
18 grower, a very astute businessman, but I
19 believe he's a -- also in another business.
20 And that's the paving business.

21 And it's possible to grow
22 chickens when you have another business and
23 you would profit. And it's -- it's called

1 writing off some of your losses.

2 And I don't know whether you've
3 ever lost any money in the chicken
4 business, but I want to address -- the
5 question that you had a little while ago
6 that I misunderstood, I've had a little
7 time to think about that question. And it
8 really goes to the upgrade question as
9 well.

10 And that is, why don't -- why
11 don't companies go out and build their own
12 chicken houses and hire their own employees
13 and put their own employees in these
14 chicken houses and grow chickens and I'll
15 you exactly why they don't. It's because
16 of supply and demand.

17 It's because if they were
18 investing more than half of what they've
19 already got in processing plants, they got
20 to turn around and put the same amount or
21 more money into the houses to grow the
22 chickens. First of all, they have that
23 huge capital outlay in the -- in the

1 assets.

2 And then they've got to hire all
3 the employees to grow the chickens. And
4 those employees are entitled to benefits
5 under federal law as employees, including
6 unemployment if they're laid off.
7 Including workers' compensation if they get
8 hurt in the chicken house.

9 All those benefits that you get
10 if you're employed, you don't get if you're
11 an independent contractor; right?

12 AUDIENCE: Right.

13 MS. JOHNSON: What was -- when
14 was the last time you got a check from the
15 government when the -- for unemployment
16 when the chicken processor left you out of
17 chickens. It doesn't happen.

18 Okay. So it's a way for the
19 processing companies to control costs and
20 to adjust for the ebbs and flows of the
21 market.

22 And I'm not an economist, I'm a
23 lawyer, but that's what I have observed

1 over the last 20 years.

2 MR. FAMILANT: Thank you.

3 I want to thank the panelists for
4 a truly spirited exchange here.

5 And I want thank the audience.
6 You guys were as attentive as any panel
7 audience I have ever seen in my life. You
8 guys paid great attention.

9 Thank you very much.

10 Ten minutes -- ten minute break
11 before the next panel.

12 (Whereupon, the taking of the
13 proceedings was recessed from
14 approximately 3:53 p.m. to
15 approximately 4:16 p.m., after
16 which the following proceedings
17 were had and done:)

18 MR. FERRELL: We're going to go
19 ahead and get started again. And for the
20 next hour we'll have another round of
21 public comment.

22 And we'll use the same form as we
23 did before, is people who got a ticket who

1 wanted to have a right to comment, if you
2 could just line up in front of each
3 microphone.

4 And I -- I would -- I ask for
5 you-all's cooperation in trying to keep it
6 as two minutes as close to possible because
7 for each persons that provides a longer
8 term amount of comments means fewer people
9 get to actually provide comments. So if
10 you could keep it closer to two minutes the
11 better.

12 And, so -- oh, and I might just
13 mention, just to help you keep staying
14 closer to two minutes, we do have a timer
15 that has a light. And it goes from green,
16 yellow to red.

17 And, so, anyway, we'll go ahead
18 and get started right here.

19 MS. LESLIE HAYES: Hi, I am -- I
20 want to thank you-all for this opportunity
21 to be here. And appreciate the fact that
22 both the DOJ and USDA are playing very
23 close attention to this issue.

1 My name is Leslie Hayes. I'm an
2 attorney with the Farmers Legal Action
3 Group. We're a nonprofit law firm that
4 represents farm -- family farmers and
5 ranchers.

6 We've been working with contract
7 poultry growers for probably 15 to 20 years
8 now.

9 And since I'm a lawyer I have a
10 very hard time with two minutes, although,
11 I'm use to seeing those lights.

12 But let me just try to make some
13 suggestions on how DOJ and USDA should work
14 together on -- particularly related to
15 enforce the Packers and Stockyards Act.

16 And I think the first thing that
17 we need to -- that the Department of
18 Agriculture needs to be very firm on is the
19 understanding that the Packers and
20 Stockyards Act is different than every
21 other antitrust and unfair practices act in
22 this country.

23 The emphasis of that act was not

1 just to protect consumers, but separately
2 to protect producers. And, therefore, we
3 need DOJ and USDA to develop a very clear
4 policy analysis of how they are going to
5 protect producers under that act.

6 We need to have them develop, in
7 detail, how they're going to take all these
8 scenarios that have been presented in the
9 poultry industry today, from the ranking
10 system to the insecurity on the duration of
11 the contracts, to the upgrade issues. And
12 take those scenarios and develop the legal
13 analysis that will be used under the
14 Packers and Stockyards Act to address those
15 issues, which aspects of them can you
16 address and how.

17 And I think that it's absolutely
18 imperative that the agencies have a clear
19 analysis of that.

20 And my suggestion would be with
21 this joint task force is that you put your
22 best and brightest lawyers and your best
23 and brightest economists together and you

1 sit down and you have the lawyers do the
2 legal analysis for each individual scenario
3 or practice that has been raised.

4 And to the extent that you don't
5 automatically have the information, in
6 part, because there's so limited
7 information in the industry, you ask the
8 economists what do we need and how would we
9 ask the question and how do we get it.

10 Then you use the very broad and
11 effective investigation and information
12 gathering authorities that USDA has and
13 force the integrators to give you the
14 information.

15 That has never been done, to my
16 knowledge, was the attempted effort to have
17 regular reports from the integrators.

18 And my understanding, I believe
19 under the Packers and Stockyards Act, you
20 have the authority to ask the integrators
21 for any information on their relationship
22 with the growers that you want and need to
23 assess their practices and whether they're

1 legal under the act.

2 With that regard, I don't want --
3 I -- I also think that it's absolutely
4 imperative that in these regulations that
5 USDA will be issuing in the near future
6 that they take -- that the Agency maintain
7 it's position.

8 That under A and B of Section 192
9 that you don't to prove any competitive
10 effect. That has been the position of the
11 Agency, I believe, from day one in the
12 passage of the act. You should maintain
13 that position.

14 In addition to that, you should
15 go the next mile and define how it is at
16 that -- how the various practices that you
17 will be addressing in the rules do, in
18 fact, affect competition or injure, cause
19 adverse competition.

20 And when you do that it needs to
21 be looking, not at the consumer, which
22 traditional antitrust law does, but, in
23 fact, at the producer and the monopsony

1 power of the integrators and how that
2 affects the producer.

3 And I think that's the unique
4 aspect of the Packers and Stockyards Act.
5 And that we need to develop a very strong,
6 clearly defined policy and guidelines and
7 exactly how you're going to enforce in each
8 of the livestock and poultry industries
9 under the specific -- to apply it to the
10 specific scenarios that you're hearing
11 about.

12 And that, then, in addition to
13 that on a long-term basis -- that can be
14 done right now. But on a long term basis I
15 think you should be issuing regular orders
16 requiring packers -- or integrators in this
17 case to report to you the information that
18 the Agency needs to investigate and
19 maintain a handle on exactly what is
20 happening in the markets.

21 And I think that you have the
22 authority to do that. Have a system that
23 you will then use that information, analyze

1 it on a regular basis and bring any
2 enforcement actions between USDA, referring
3 them to DOJ, that that information on an
4 ongoing basis presents.

5 My time is up. Thank you very
6 much.

7 MR. FRED PARRISH: My name is
8 Fred Parrish. And I had a statement
9 prepared, but pretty much most of it has
10 been covered real well.

11 But -- so I just wanted to share
12 some experiences under this tournament pay
13 or performance pay.

14 I've had add some flocks of
15 chickens that were delivered that were
16 sick. One had aspergillosis and the
17 company knew it, it come from the hatchery,
18 and I had a high mortality and the birds
19 didn't perform.

20 And I had one that had rickets
21 and a high mortality and the birds really
22 didn't perform.

23 And I wound up with a, I think

1 one of them was a hundred and sixty-seven
2 and one of them was a hundred and
3 eighty-four points below average. And the
4 company knew that it wasn't anything I did,
5 but I'm the one that suffered the loss.

6 They took my performance and
7 subtracted it from base pay and that's what
8 I got. But it wasn't anything I done, it
9 was something that happened to the birds
10 before I got them.

11 I've had them bring feed out that
12 would be molded and you couldn't get it out
13 of the bins. To them it doesn't matter,
14 you know.

15 You'll hear them say, "Well,
16 yeah, it does matter, why would they do
17 that"?

18 They do it, I don't know why, but
19 they do.

20 And I wound up on the -- the
21 probationary thing. They cut base pay,
22 which cuts my pay because I had fallen down
23 to the six block average of 60 points below

1 average.

2 And -- but, now, you know, when
3 they wanted something out of me the next
4 batch, they wanted me to take birds back
5 early because somebody wasn't going to be
6 ready.

7 And I told them, you know, is
8 you-all done this to me, you knew it was
9 your fault that I'm here, you know. I'm
10 not doing you no favors if you're not going
11 to help me.

12 I told them, "You know, you give
13 me back my birds, you know, take me off
14 probation then I will take them back".

15 Well, I reckon they needed bad
16 enough at that time and they did give them
17 back to me on my next flock and took me off
18 of probation.

19 As it was them, and I lost a lot
20 of money off of that because I've got six
21 houses that holds -- well, now, I was
22 getting 12 -- was getting 20,000 for the
23 house, but they've cut it back to 19, but,

1 at that time, we were only getting sixteen
2 seven. And when we originally started with
3 them we were getting 20,000 to the house.

4 And the only thing that changed
5 was the number of birds we got. The
6 weights went down when they was suppose to
7 go up.

8 And whatever they say they make
9 things so that you can't hardly get out of
10 debt. It keeps you in debt one way of the
11 other, you know. They may give you a
12 raise, but they cut weights and you still
13 can't make any more money.

14 I made as much as \$50,000 the
15 first year I put in a batch. Now, after
16 I've spent close to \$200,000, I think my
17 best check has been 52 or \$53,000. That's
18 with the incentive pay. And that's been
19 12 years that I've been with them, you
20 know.

21 It's just not right the way they
22 did it. I mean, it's manipulative.

23 Thank you.

1 MS. PATTY LAVERIA: Hi. My name
2 is Patty Laveria, but I'm actually going to
3 read a statement for someone who -- a
4 grower who is very interested in coming
5 today, but couldn't make it to this
6 meeting.

7 His name is Reed Phifer. And
8 he's gone turkeys and broiler chickens for
9 23 years under three different integrators
10 with -- with many contract changes.

11 And, so, what he wrote was that I
12 believe when a poultry company entices a
13 grower to borrow and a lending institution
14 to loan a very large amount of money to
15 build what I consider to be no more than a
16 company farm, the company should be forced
17 to see that the debt is paid in full.

18 I think this should be done even
19 it means making the poultry company the
20 co-borrower and as much as responsible as
21 the primary borrower.

22 This means that if money is
23 borrowed to be paid back in a 10-year time

1 frame, the contract should stay in place
2 for that period of time.

3 What the company can accomplish
4 through this channel is to have in
5 possession a facility that produces their
6 poultry with cheap labor and no capital
7 outlay. This is labor the company knows
8 they cannot afford -- this is labor the
9 company knows cannot afford to question
10 anything asked of them.

11 I feel making the integrators
12 stand behind their contracts until the debt
13 is paid in full should be mandatory. This
14 is the -- this is for when the contract was
15 presented to the lending institution. This
16 was the major factor used in calculating
17 how this very large amount of money will be
18 repaid.

19 The integrator is selling the
20 lender a bill of goods that the loan will
21 be repaid on the premise that the payback
22 numbers are generated by the integrator's
23 contract are exact and guaranteed.

1 I understand from talking with a
2 previous grower that Tyson is going to a
3 guaranteed payback contract. This is not
4 to say they want a burden of this
5 magnitude, but it is saying the lending
6 institutions are not loaning money unless
7 their payback is guaranteed.

8 A second point that he makes is
9 that a poultry company should never have
10 authority to require mandatory upgrades
11 without measures in place to fund the
12 additional work at no cost to the grower.

13 The company should feel confident
14 in their ability to define the exact
15 procedures needed to produce their poultry.
16 This should be clearly defined in their
17 initial contract wording so as to make sure
18 there is no need to add amendments which
19 could cause the grower undue stress.

20 When and if the company learns of
21 new technology that will help profit the
22 production of their poultry, they should be
23 responsible for the additional capital

1 outlay.

2 And one last point that he makes
3 is that the grower should have some piece
4 of mind concerning contract security. They
5 honestly have no idea what may happen from
6 one day until the next.

7 This is one reason I would
8 suggest that companies needing additional
9 space for growing their poultry be required
10 by regulation to stand behind any loan
11 acquiring monies for this purpose until
12 paid in full.

13 UNIDENTIFIED SPEAKER: I'm making
14 a comment on behalf of a grower who would
15 not come here today, was not able to come
16 here today because of fear of retaliation.
17 I'm reading his conclusion first.

18 These comments are real and
19 serious. I cannot reveal my identity for
20 fear of sever consequences, like no more
21 chickens. There is, incidentally, a
22 blacklist among integrators so any grower
23 cut off will not be picked up by another

1 integrator.

2 The subject for this memo is, as
3 a contract poultry grower the Secretary of
4 Agriculture and the Attorney General for
5 the USDA Poultry Workshop. This is an
6 uncommon opportunity and I thank you for
7 it.

8 Unpaid mandatory upgrades.
9 Requirements prefaced by you will not
10 chickens get back until 36 months ago new
11 cool cell pads 20,000 -- \$2,000.

12 24 months ago demands lighting,
13 \$2500.

14 20 months ago new feed bins
15 \$8,000.

16 Requirements prefaced by, perhaps
17 you should just stop growing chickens
18 because you're old and it would cost too
19 much to bring your houses up to standard.

20 12 months ago new ceilings, new
21 ceiling, new heaters, new baffles, new cool
22 cells door, a hundred twenty thousand
23 dollars, and four months lost production.

1 Requirements prefaced by, You
2 want to sell farm, new controllers will be
3 required.

4 Two months new controllers,
5 \$14,000.

6 Summary, a hundred and fifty
7 thousand dollars for three years for the
8 privilege of remaining to be a contract
9 grower.

10 Recommendation. Integrators are
11 paid in full for required upgrades.

12 Two, lack of contract security.
13 I get a one year contract, which says that
14 if I fail to respond to any requirement,
15 they can refuse to put chickens back in my
16 houses.

17 Summary. Integrator has
18 demonstrated numerous times by you will not
19 get chickens back until that there is not
20 even 1-year security.

21 Recommendation. Integrator
22 should be required to give real contract
23 which extends through the amortization of

1 houses and improvements.

2 Unfair payment system. The
3 tournament method of payment has been used
4 for years. This means that the integrator
5 computes the flock average price, covers
6 how that's done.

7 Summary. There's a common thing
8 that the integrator than can send the check
9 with the chickens, meaning that all the
10 factors are controlled by an integrator.

11 Recommendation. USDA should
12 declare this practice as unfair.

13 Insufficient base rate increases.
14 Got a token raise of about 5% two years,
15 which brings compensation for over a
16 million dollar facility to just under
17 minimum wage.

18 Summary. Why do I do this, my
19 children will have no part of it.

20 Recommendation. For the industry
21 to survive, there has to be better
22 compensation to contract growers.

23 Financial institutions are

1 rapidly slowing the number of poultry farm
2 loans and requiring more security. This
3 will bring the industry and this country to
4 its knees.

5 Finally, lack of Packers and
6 Stockyards action. I had a visit from
7 Packers and Stockyards about ten years ago.
8 They listened to my story and thanked me
9 for my time and left. Do they still exist?

10 Summary. As it currently
11 operated, it has not effect on the poultry
12 industry.

13 Recommendation. Congress should
14 amend the Packers and Stockyards Act to
15 give USDA full enforcement over unfair and
16 deceptive practices in the poultry sector.

17 Packers should prohibit poultry
18 companies from cancelling contracts without
19 adequate cause.

20 Packers and Stockyards should be
21 required to enforce growers rights rather
22 than uphold poultry companies.

23 Thank you for your time.

1 UNIDENTIFIED SPEAKER: Thank you
2 for the opportunity. The purpose, my
3 friend could not make it, he just got cut
4 off of chickens last week. They pulled his
5 contract. And he asked me to come and give
6 this testimony of what me -- what he has
7 proposed that might would help all of us in
8 the chicken business.

9 The purpose of this is to protect
10 and give security to the livelihood and the
11 source of retirement for each farmer who
12 has worked for years, years of no
13 comfortable future for their family.

14 He said one permit should be
15 issued to each existing poultry house under
16 contract at present by the federal or state
17 government before any more houses to be
18 built.

19 A new person interested should
20 have to purchase a permit house per house
21 solely from the owner who has permit in
22 hand, one permit to a house.

23 Example, if there was 975 houses

1 in a state, the integrators could not build
2 no more houses unless a new fellow, a new
3 person interested should have to find a
4 farmer that wants to get out of the
5 business on his own terms, buy his
6 permitted houses from him so that no
7 integrator could cut him off for little or
8 no reason.

9 This is to ensure that the
10 permitted farmer has a little security for
11 his or her future. No more houses could
12 built in the state without a permit.

13 One permit equals one house. If
14 a farmer has four houses he has four
15 permit. On permit is valued at \$30,000.

16 People in cities and counties are
17 complaining about the smell, flies and
18 environmental impact to these communities.

19 The chicken companies want to
20 build new houses every year so houses that
21 have a little age can be cut off or made to
22 update to comply with their rules,
23 regulations so they have you so deep in

1 debt that you cannot make a rationale
2 decision.

3 At present farmers have put up
4 all their land, houses, everything they
5 own, their parents and grandparents to get
6 into this operation with no say so at all
7 to where someone else pushes the pencil to
8 how much you make.

9 This is the first million and a
10 half dollar investment for a minimum wage
11 job that I've ever had with no security at
12 all.

13 I thank y'all.

14 MR. BILL RONICK: Good afternoon.
15 My name is Bill Ronick. I'm with the
16 National Chicken Council. And I appreciate
17 the opportunity like many of the other
18 speakers and panelists today, we appreciate
19 this opportunity.

20 I'd like to mention a couple
21 things for the record, they've been said
22 before, but I'd just like to reemphasize
23 those and I have a couple of other

1 thoughts.

2 Companies have tremendous
3 economic and competitive incentives to
4 produce good chicks and good feed. If they
5 don't, they're at a competitive and
6 economic disadvantage to other companies.
7 And, so, they want to produce the best
8 chicks and the best feed that they can, but
9 it's a biological process in the case of
10 the chicks, and that makes it much more
11 difficult.

12 For 35 years, until last year,
13 broiler production increased. We talk
14 about volatility in agriculture, there
15 certainly is that, there's certainly is
16 that in broilers.

17 But if there's stability in
18 agriculture, I would suggest that the
19 broiler industry offers more stability than
20 some other parts of agriculture based on
21 that 35-year record.

22 If you go back 35 years, I would
23 suggest the reason production was adjusted

1 downward then was because of government
2 policy.

3 And I'm not suggesting the reason
4 we adjusted production down last year was
5 government policy, but I think it was part
6 of it.

7 This year broiler production,
8 luckily, is increasing again, USDA says 2%.
9 I think maybe we can do a little bit more
10 than that, but every other meat, beef,
11 pork, turkey, their production is down this
12 year. Broilers is the only one that's
13 going up. Next year we're going up again
14 more than 2%, 3%, maybe more. So we're
15 continuing to get back on this track of
16 continually growing year after year.

17 One of the questions is why don't
18 companies grow -- own grow out facilities.

19 Well, a large company in
20 California, one of the largest companies
21 does, in fact, grow its -- own essentially
22 all their grow out production. In
23 California they're one of the most

1 profitable companies, I haven't seen their
2 books, but I understand they're one of the
3 most profitable companies.

4 There's a small company in Ohio
5 -- I've already spoke for two minutes.

6 A small company in Ohio does --
7 owns their own production, so whether large
8 or small.

9 And then there's other companies
10 in between that grows -- that owns some of
11 their own production.

12 And just quickly, Brazil, Mexico,
13 China, a lot of other countries would not
14 only just like to take our export markets
15 overseas, they would like to export their
16 product here.

17 And I'm going to say -- and we're
18 not going to get into the word if, I'm
19 going to say when these companies meet
20 USDA's inspection requirements, their
21 product will be coming here. And we will
22 be competing against not just their
23 product, but their growers, their feed,

1 their chicks.

2 So it's a global world
3 competitively and it's getting more so.

4 International trade, our exports
5 take about 20% last year. Russia and
6 China, as we speak, are disrupted, they're
7 our two biggest markets. They account for
8 40% of our exports. We hope those markets
9 return, but, as I speak, they are
10 disrupted. And, luckily so far, I don't
11 think that problem has gone back to the
12 growers, I think there's some insulation
13 there.

14 The one question I was asked that
15 I didn't hear a good answer is, when I talk
16 to companies, most companies, many
17 companies, if not most companies, have a
18 list of people who want to grow chickens or
19 want to add to production.

20 Now, I understand in the short
21 run, perhaps, you can misrepresent the
22 information, but we've been doing this for
23 four, five decades. And as Abraham Lincoln

1 said, "You can trick some of the people or
2 fool some of the people some of the time,
3 but it's very difficult to fool all the
4 people all the time".

5 So I'd like to hear an answer
6 about, if this such a bad deal, why have
7 we've been able for four or five decades to
8 continue to have people who would like to
9 get into the business.

10 And I appreciate this
11 opportunity. Thank you.

12 MR. KIRBY NASERY: I'm Kirby
13 Nasery. I've been in the business for 21
14 years as a poultry grower.

15 To answer your question that you
16 just asked. When I got in it in 1989, I
17 was working offshore on an oil rig. My
18 father had retired. My wife had a really
19 good job and we were doing really good. We
20 put every dime back we made back into
21 chicken -- six chicken houses for seven
22 years. We paid for them in seven years.
23 That's -- that's unheard of, but we put

1 every dime we made back into them.

2 I wasn't even going to bring that
3 up, but the reason I got up was for the
4 ranking system.

5 Right now I'm number nine out of
6 333 growers on a six block average. I've
7 got two three house farms. I'm also number
8 126 of 333 farms.

9 Now, how is the ranking system
10 fair? Everything I have got is the same.
11 I've got the same equipment. Get the
12 chickens the same day, sell them the same
13 day. How is this possible if the ranking
14 system is fair?

15 Do I spend more time in three
16 houses than I do the other three houses?

17 Do I better -- do I do a better
18 job?

19 My -- my opinion of it is we get
20 a lot of split loads of feeds. And I have
21 never called the Packers and Stockyards
22 about this, but we will get three farms --
23 three different farms on one truck of feed.

1 You've got a driver that comes
2 out there, stays on the cell phone the
3 whole time he's unloading feed, you know.
4 6,000 pounds on three houses, which is one
5 bin of feed, makes two points feed
6 conversion. Two points feed conversion can
7 cost me \$3,000.

8 I just -- you know, I don't -- I
9 don't know the answer for the ranking
10 system, but what we've got is not fair. I
11 have been on top and I have been on bottom.

12 And, like I say, I don't have an
13 answer for it, but, anyway, thank you.

14 MR. DONALD RAY WILKES: I'm
15 Donald Ray Wilkes from Geneva County,
16 Alabama.

17 There's been a lot of things
18 discussed here that I've dealt with. One
19 thing that I'd like to mention, although
20 all that's been talked about, is upgrades.

21 And the biggest thing in our
22 input into chickens are feed. The
23 technology that's available today, why

1 aren't there some sort of technology on
2 that truck to let them know that this house
3 and this bin putting this much feed in it.
4 If they can do it at a feed lot where
5 there's cattle running across the trough
6 there and he moves a foot and notices he's
7 at the wrong spot, why can't this be done
8 with chicken feed because I had it happen
9 to me.

10 A load of feed came in on a
11 Saturday. When it sold I had the best feed
12 conversion of anybody, wasn't nobody around
13 me.

14 They came down and I told them to
15 go back and look at where there feed is.

16 He said, "We haven't got it.

17 I told him to come back on that
18 Friday if they didn't get it because all it
19 was going to do was hurt some other
20 growers.

21 So I produced the ticket for him.

22 He said, "We haven't gotten it".

23 A week later in the mail they

1 made up a ticket and sent it to me.

2 So the technology that's
3 available today, why aren't they upgrading
4 the feed trucks.

5 Thank you.

6 MR. ALTON TERRY: I guess a lot
7 of you might know who I am. I'm Alton
8 Terry. All I wanted to do was watch my
9 chickens get weighed. The company wasn't
10 doing it, it wasn't letting us watch our
11 chickens get weighed.

12 I was on the horn to Jim Baker,
13 the former GIPSA administrator.

14 He said, "No, you have the right
15 to watch your chickens get weighed".

16 I knew that they were messing
17 with the weights in our complex, I knew
18 that they were doing that, but every time I
19 wanted to go and watch my chickens get
20 weighed they would never let me weight it.

21 And, as I understand it, the
22 complex manager even had to sign off that
23 we got to watch our chickens get weighed.

1 I want to know why the Packers
2 and Stockyards Act isn't working --
3 administration does not have real penalties
4 for me asking this question, for me to
5 watch my chickens get weighed, and for a
6 few other little things, they cut me off
7 from growing business and cost me hundreds
8 of thousands of dollars.

9 Where is the penalty to them?

10 If they can weigh a chicken right
11 should they even be allowed to weigh the
12 chickens, you know. Maybe that function,
13 that part of vertical integration should be
14 taken away from them. If they can't weigh
15 the feed right and give a ticket right to
16 us, maybe that should be diversified -- you
17 know, divested from their part of their
18 integration.

19 If they can't handle their
20 business correctly and want to cheat the
21 farmer with their power, their market power
22 that they have, that -- those parts just
23 need to be taken away from them.

1 Now, I understand the Packers and
2 Stockers Act is being undermined by this
3 proof to harm in competition. When they're
4 cheating all of these farmers out here,
5 they're getting a monetary advantage in the
6 market.

7 When they're all doing it they're
8 colluding in that -- that -- in getting
9 that advantage from the farmers. They're
10 making money off of the farmers by farming
11 the farmers and that gives them a
12 comparative advantage to any new entrant in
13 the market that wants to come in.

14 And, so, you know, they're
15 colluding already. And that's the excuse
16 that the federal judges say that we -- you
17 know, that we can't have this law enforced.

18 I want to know something, do
19 these guys not know the difference between
20 or and and. Do they not think the people
21 who legislated this law know the difference
22 between or and and. I mean they did know
23 the difference.

1 These prohibitions were there so
2 that these companies right here could not
3 cheat the farmer to gain value and to be in
4 the marketplace competing with each other.
5 It reduces the price of the market that all
6 of the people get in the market.

7 And if I get cut off of chickens
8 I can't get ten other growers and go and
9 compete with them because they're cheating
10 growers to get a lower price.

11 I mean, this is ridiculous what's
12 been happening with these federal judges in
13 the court cases.

14 And, you know, if Congress needs
15 to act -- I mean, they've acted time and
16 time and time again, maybe we need to get
17 rid of a few judges, maybe we need to get
18 the House Judiciary Committee to take out
19 some of these judges who are just siding
20 with these corporations and cheating the
21 family farmer.

22 I mean, what else can we do?

23 That's what the Constitution

1 allows and maybe the Justice Department
2 should ask for that.

3 MR. WEAVER: I don't know if
4 gentlemen were here for the last panel that
5 I was on. There's a couple of points that
6 I didn't get to finish on that panel that
7 I'd like to clarify for the folks here if
8 you don't mind.

9 And it's directed to you, too,
10 because these are things that you can have
11 input on, too, and, hopefully, make some
12 changes on.

13 They didn't give me the
14 opportunity to express my example about the
15 KFC price, \$26.99 for a 12-piece bucket of
16 chicken. And us, as growers, got 30 cents
17 of that.

18 And that being the case, there is
19 something fundamentally wrong with -- with
20 our private enterprise system here in this
21 country.

22 But when I do -- I had these
23 chickens by arrangement, I had them for at

1 least 35, 36 days.

2 The integrator has them for three
3 days; the day they get them from the layer;
4 the day they take them out of the hatchery
5 bring to me; and the day the process them.
6 So, you know, where is the equity in that?

7 We've got them ten times longer
8 than the integrators do and they make,
9 Lord, knows, how much more profit than we
10 do because they'll never tell us.

11 And the example that I had of a
12 settlement of 1985. I don't know if you
13 gentlemen saw that.

14 We have proof that in 1985
15 growers were making 4.85 cents a pound.
16 And today our base pay is 5.05 cents,
17 two-tenths of a cent a pound more than it
18 was in 1985. How is that fair?

19 Look -- look how much all of
20 other costs have increased, fuel,
21 equipment, labor, taxes, insurance, but
22 two-tenths of a cent a pound increase.

23 So we -- we have to rely -- we --

1 we can't do it as individuals. Even as
2 associations, we don't have the power or
3 the authority over the mega corporations
4 that run agriculture in this country that
5 you folks do. And to me, that's your job.

6 We need your help to change the
7 way that agriculture is run in this
8 country, you and the Department of Justice.
9 I forgot, we had the Department of Justice
10 here, too. Please help us. We need your
11 help.

12 MR. MARK HUDSON: Hello. My name
13 is Mark Hudson. I'm a poultry grower from
14 Red Boiling Springs, Tennessee up near the
15 Kentucky line. I've been involved in the
16 poultry industry 2004. And, probably, as
17 many here would tell you, I picked the
18 absolute worst years to get -- to get into
19 the poultry industry.

20 The issues I'd like to -- like to
21 bring to light probably is as pertinent to
22 GIPSA as it is to the finances.

23 As Professor Taylor alluded to

1 earlier, one of the unintended consequences
2 of vertical integration is that it has
3 created a blackhole of information.

4 In other words, those people that
5 -- that would be on that waiting list to
6 get into the poultry industry do not have
7 good and accurate information that is
8 unbiased from the industry.

9 Looking back into my own
10 mistakes, that would be the chief mistake. I
11 did search at great length to find the
12 pertinent information, not just necessarily
13 just -- just the costs, but the units, how
14 many kilowatt hours of electricity, how
15 many gallons of gas per -- per house top.
16 I tried to find that information and that
17 information doesn't exist.

18 Both myself and my lender relied
19 on the cash flow statement as delivered by
20 the -- by the integrator.

21 Now, I think we've heard
22 testimony numerous times today that those
23 -- those particular cash flow instruments

1 are not accurate.

2 And both myself and the lender
3 based their -- their decision to go with
4 the loan and go into production on that
5 particular document. That document wasn't
6 accurate from the first flock that I placed
7 and set.

8 I think their estimate, at that
9 time, was that it would be a 28 -- 28 cents
10 out of every dollar would go to cover my
11 variable costs.

12 And that would leave me about at
13 72 -- 72 cents out of every dollar to
14 handle my fixed costs, you know, my
15 personal income and to maintain the
16 facilities.

17 And the situation that we've got
18 into on the facilities is that we have far
19 exceeded thresholds of diminishing returns.

20 The capital investment of these
21 facilities, while they may be greatly
22 benefiting the integrator, are not
23 returning any value to us whatsoever. We

1 need to compare that to the fact we're
2 making, you know, a very small fraction of
3 we were generating in income in 1985.

4 The poultry industry is in great
5 danger of self-regulating itself because
6 these truths as to how much it costs to
7 operate things, and also the overhead cost
8 and ability of income to sustain this, will
9 tell on itself eventually unless something
10 is changed about the industry.

11 So the industry representatives
12 are here. This is a great threat to you.
13 It's already a present threat to the
14 growers, but if you want to continue to
15 grow in the United States, you're going to
16 have to find out how to overcome this.

17 It has been mentioned, you come
18 sign on and you become a full partner with
19 us, or you pay for the part that's going to
20 return you some money and leave us the part
21 of the investment that returns us some
22 money, but we will have to partner on this.

23 There are parts of GIPSA issues

1 that may come up. You're facing a real
2 economic problem in the United States on
3 overhead and the inability to sustain that
4 overhead with income that you're returning
5 to us.

6 So that would be my statement.

7 Thank you.

8 MR. FERRELL: Well, seeing that
9 no more folks wanting to provide comments,
10 suddenly you got bashful. No, I'm just
11 kidding.

12 Well, I just want to thank
13 everybody for coming to today's competition
14 workshop.

15 I think we've heard a number of
16 issues today and we've learned a lot from
17 our panelists. And I thank them for taking
18 the time to participate today.

19 I especially want to thank the
20 president of Alabama A&M and all the folks
21 here at the University that did everything
22 they could to get everything ready and they
23 did a great job. I thank them greatly for

1 doing that.

2 I also thank our folks at USDA
3 and DOJ for helping get all the logistics
4 and everything put together.

5 And, as I have said at the Iowa
6 workshop, I appreciate the good working
7 relationship we've had with the Department
8 of Justice working on these issues and
9 looking forward on that.

10 I want to thank Congressman Davis
11 and Alabama Agricultural Commissioner Ron
12 Sparks for attending this morning.

13 And I'll just mention that our
14 next competition workshop will be held on
15 June 25th. And it will focus on
16 competition in dairy issues in Madison,
17 Wisconsin.

18 Then we'll have a livestock
19 competition workshop on August 27th in Fort
20 Collins, Colorado.

21 And then a workshop on margins on
22 December 8th in Washington, D. C.

23 I will turn it over to, Dudley,

1 or, Bill, if you have any comments.

2 MR. STALLINGS: I just want to
3 reiterate on behalf of the Department of
4 Justice our thanks to the Alabama A&M
5 University. It's been truly a privilege
6 for us to be here. And a lot of people put
7 in a lot work behind the scenes to get this
8 -- to get this event going and -- and I
9 think it's been a really good and
10 productive day today.

11 I especially want to thank all of
12 you for coming here. We have heard
13 throughout the day that there -- there is a
14 real hardship in you being here, either for
15 the fear of retaliation or just the mere
16 fact of having to take a day off from work
17 to come here and tell your story.

18 We have -- we have heard your
19 stories, we -- we understand them, we
20 appreciate them and we understand the
21 importance of the issues that have been
22 talked about here today.

23 So once, again, I just want to

1 thank you-all for -- for being here.

2 MR. DUDLEY: I'd just like to say
3 that -- I want to reiterate and tell you a
4 fact. The last time that the Packers and
5 Stockyards Act was on a presidential agenda
6 was on Woodrow Wilson's. That's back when
7 it was passed.

8 The Act is on President Obama's
9 agenda. I think we have shown today that
10 we are serious about this to have the
11 Secretary of Agriculture, to have the
12 Attorney General, the Assistant Attorney
13 General here. And for nothing else, it
14 costs a lot of money to get them down here.

15 But they are very, very
16 interested, as we are, in solving problems
17 in agriculture. It is very important, not
18 only to the industry, but to the producers,
19 the farmers and the consumers and we're
20 committed to do so.

21 And I want to thank all of you
22 for taking time out of your busy schedules
23 to come and visit with us and make

1 comments.

2 MR. WEAVER: We owe thanks to
3 these people right here. So they need a
4 really big hand.

5

6 END OF HEARING

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C E R T I F I C A T E

STATE OF ALABAMA)

SHELBY COUNTY)

I, ROBERT KEITH KENNEDY, Notary Public for the State of Alabama at Large, hereby certify that I am the Certified Court Reporter who made machine shorthand notes of the foregoing proceedings at the time and place stated in the Caption thereof; that I later reduced my shorthand notes into typewriting; that the foregoing pages numbered seven through three hundred eighty-eight, both inclusive, contain a full, true, and correct transcript of proceedings had on said occasion.

I further certify that I am in no way related to nor employed by any of the parties, the witnesses or counsel, and that I have no interest in the outcome of this matter.

Given under my hand and seal this the
6th day of June 2010.

Robert Keith Kennedy
CCR License No. 318

My Commission Expires
September 5, 2010